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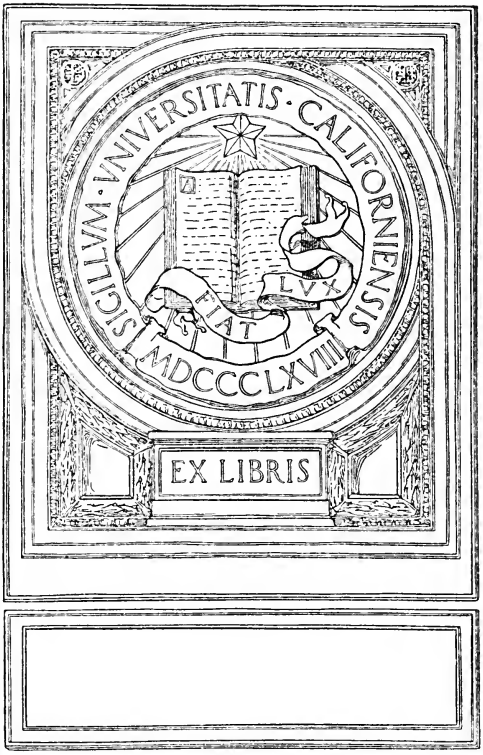
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COMPULSORY SCHOOL ATTENDANCE AND CHILD LABOR

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A STUDY OF THE HISTORICAL DEVELOPMENT OF REGULATIONS COMPELLING ATTENDANCE AND LIMITING THE LABOR OF CHILDREN IN A SELECTED GROUP OF STATES

BY

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Submitted in partial fulfillment of the requirements
for the degree of Doctor of Philosophy,
in the Faculty of Philosophy,
Columbia University
1921

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INTRODUCTION

Our national experiences during the years 1917-20 have served to emphasize the importance of education. It was found that in the emergencies of war the man with developed mind and skilled hand, the man whom the schools had trained, could adjust himself readily to new requirements. In factory and laboratory, in camp and on the battlefield, he demonstrated his superiority over those whose opportunity for systematic training had been narrowly restricted or altogether lacking. It was also found that a dangerously large proportion of our young men had arrived at maturity with so little learning as to make it necessary to classify them, for army purposes, as illiterate.

The federal census, loosely taken and inaccurate as it is admitted to be, shows that seven of every one hundred of the population above ten years of age are absolutely illiterate, unable to write their names or read the simplest print.[1] The report of the Surgeon-General of the United States Army, based upon an examination of the selected body of men constituting the draft army, is still more disquieting, showing as it does that one man out of every four is unable to read and write in English.[2] Some comfort can be derived from the fact that of those classified as illiterates, 14.2 per cent are negroes and a considerable proportion of the remainder foreign born. But at the best, the conditions revealed are serious,

1. United States Census, 1910. For comparative table see Monroe, *Cyclopedia of Education*, "Illiteracy."

2. *Education of Illiterates; Hearing before the Committee on Education, House of Representatives*, Feb. 14-15, 1919; pp. 25-26. The report covers the examination of more than one and one-half million men, in twenty-eight training stations widely distributed throughout the country. All men not able to "read and understand newspapers and write letters home," a total of 24.9 per cent, were classed as illiterate. The War Department, commenting upon the results of the examinations, says: "The extent of illiteracy among the drafted men is a striking fact. The figures, however, are not an exact measure of the fact. It is obvious that without a more definite measure of illiteracy . . . . any detailed statements are impossible; it is equally obvious that these measures, though rough and varied, do indicate general conditions of serious public concern."

and have brought deserved criticism upon systems of education which, in the final analysis, must be held responsible.

Every state in the Union has established a more or less elaborate system of free public education. Nearly all have enacted laws requiring children to attend school for various periods, but it is commonly recognized that in by far the larger proportion of states the so-called compulsory education laws, usually administered by local officials, are at best only partially enforced. Yet the revelations of the draft came as a distinct shock to the people at large who cherished the belief that nowhere else in the world could be found a citizenship with a higher level of intelligence and enlightenment. It may be assumed, then, that against illiteracy there will be waged systematic warfare, a warfare in the interests of democratic government, waged by a people conscious of the necessity to win, aware that only through compulsory measures can the masses be saved from ignorance.

Since the war has revealed, also, a serious lack of skilled workmen, of those prepared to undertake the specific tasks, mechanical and scientific, which the occasion demanded, it may be assumed that all phases of vocational education will receive attention, that continuation schools for workers will be established, that the labor of youth will be more severely restricted and that attendance upon the means of education will be enforced under state or even national authority. But old customs and old machinery of administration cannot be swept away and a new order created. That which the future is to accomplish must be built upon the foundations already laid in the experiences of the past.

The history of the compulsory education of children and the regulation of their employment in the United States may be divided roughly into three periods. Through the first period there extended the colonial conception of education. The children of the poor were conceded the rudiments of learning, but labor was regarded as altogether desirable and both its moral and economic values were stressed. During the latter part of the period, in the second and third decades of the nineteenth century, while the value and necessity of child labor remained unquestioned, save by the relatively feeble organiza-

tions of working men, there was a growing agitation for such a limitation of employment as would enable children to acquire the elementary education to which all, theoretically, believed them entitled. The second period begins toward the middle of the nineteenth century, when various forces began to recognize their common interest in the child and to unite in seeking to secure for him certain rights through legislation. There followed half-hearted measures, emasculated by those who regarded any interference with parental control over children as undemocratic, or jockeyed out of the possibility of effective enforcement by designing men who were profiting by the unrestricted labor of children. Gradually, in the latter part of the century, laws in the interests of childhood pass into a third stage. The state began to discover its own power and to be more keenly aware of its responsibility. Individuals and organizations learned how to coöperate. Practical students of social conditions devised methods of securing measures that could be enforced. Labor oriented itself and its voice was heard with increasing respect. Employers found that the labor of young children was not profitable after all, and finally a beginning was made towards the establishment of systems of education that recognized the industrial and social needs of children.

It is the purpose of this study to trace in some detail the development of legislation for the control and compulsory education of children from its inception in the English statutes for the restraint and industrial training of the children of the poor to its expression in the elaborate systems of universal, obligatory education with the accompanying elimination of child labor in the most progressive American states.

From the time of Plato to the present, discriminating statesmen have recognized the importance of education both as a stabilizing and as a selective agency. Though compulsory attendance upon the means of education was most perfectly developed in the most autocratic state of the modern world, those whose political ideal is "liberty under law" believe that there can be no real liberty, no true democracy without education, free, universal, compulsory for every citizen. The most hopeful symptom in the present industrial and social crisis is

the supreme faith which all factions rest in education. Beyond doubt, extensive educational programs, both state and national, are imminent. Since these programs, determining the educational and industrial policies of the future, must rest upon the educational and industrial practices of the past, an historical survey of the process by which the state gradually assumed control and direction of children's lives must have both interest and value.

The limits and purposes of this study forbid the examination of the laws relative to compulsory education and the restriction of the labor of children in all the states. It seems impracticable even to take a sampling of such laws and administrative policies characterizing the principal geographic regions of the Union. The section dealing with the colonial period is limited to a few of the more populous colonies of the North, colonies in which the education of the children of common folk was especially stressed. Industrial conditions of great interest prevailed in the South, and the lives of working children were directed by laws of much the same character as those prevailing at the time in England.[3] Here, however, the Puritan zeal for literary education among the poor had no counterpart. Industrial life began to be modified by negro slavery before distinctively provincial ideals could develop. State educational systems did not thrive as in the North, and the education of the masses did not become a vital problem until after the Civil War.

Again, in the early national period, the study has been narrowly restricted to a small group of states that developed relatively large manufacturing interests and thus came early to face the serious problems of child labor. In the more detailed discussion of particular states, an arbitrary selection was made of a small group of states, each one of which has made some peculiar and significant advance in some phase of its regulation of school attendance and employment. The states chosen are Massachusetts, Connecticut, New York, Pennsylvania, and Wisconsin. Massachusetts and Connecticut are included partly because they best illustrate the develop-

3. See Jernegan, "Compulsory Education in the Southern Colonies," *School Review*, June, 1919, pp. 405-425.

ment in America of the old English customs as modified by Puritan ideals. In these two states manufacturing was early under way and the conflict between education and industry was first recognized. Massachusetts, as a colony, not only enacted the first compulsory education and compulsory school laws in America and sought first to control the labor of children, but throughout the national period she has usually been a leader in the several stages of advancement in legislation and administration. Connecticut was the first state to accept definitely the policy of state rather than local administration of school attendance laws; more clearly, too, than any other state, she has recognized the intimate relations of child labor and school attendance. New York, for obvious reasons, must be considered in such a study as this. Here the fight for and against the child has been waged on a large scale. The problems of child labor have been included within a relatively brief space, and in recent years the legislation in behalf of working children has been especially significant. Finally, Wisconsin and Pennsylvania were chosen because first to establish state systems of compulsory continuation schools for children employed in certain types of industry. These states are not unique among the sisterhood of states except that they have advanced one step further than the rest in the development of universal compulsory education. The same forces which made possible their advanced educational programs are working everywhere and are clearly manifested in a score of other states.

In gathering materials for this monograph, recourse was had to original sources so far as they were available, but other sources were drawn upon freely. In the section dealing with conditions in England, Sir George Nicholls' interpretation of the English Poor Law was extremely suggestive. The chief sources consulted in preparing the section on early colonial laws and procedure were the colonial and town records, collections of various historical societies, and recognized authorities on American colonial history. Laws, committee reports, reports of state officials, reports and discussions of philanthropic and educational organizations, have been widely consulted in gathering data for the later portions of the study.

While certain laws enacted subsequent to the year 1917 have been used to indicate the direction of modern thought relative to the labor and education of children, no attempt has been made to include in the study the mass of legislation, much of it necessarily temporary in character, called forth by the war or by conditions immediately following it. In order that he might gain some first hand knowledge of the questions discussed, and that he might verify or correct some of the impressions gained from other sources, the writer visited each of the five states used to illustrate the development of modern methods of controlling the education and labor of children.

The writer regrets that it has not been possible to present in the form of definite statistics more adequate evidence as to the operation of the various laws regulating the attendance at school and the employment of children. Unfortunately the earlier reports of state departments of education, bureaus of labor, legislative committees and other bodies that might be expected to furnish statistical materials, were not presented in such a way as to enable the student to secure reliable data. Indeed, in many states educational statistics are so treated at the present time as to obscure the data essential to a proper study of attendance and employment.

It is not possible for the writer to acknowledge except in a general way his indebtedness to the great number of educational and labor officials through whose courtesy much valuable information was made available. He is under special obligations, however, to Dean William F. Russell, of the State University of Iowa, who read the manuscript and made valuable suggestions; to Professor Samuel McCune Lindsay for directions and advice in the treatment of the problem of child labor; to Professor George D. Strayer, in whose seminar the original outline was criticised and discussed, and to Professor Paul Monroe, for guidance in research and organization.

CHAPTER I

ENGLISH FOUNDATIONS

Through the heterogeneous systems of education to be found in the various states of the Union run certain common principles. Most nearly universal is the conception that the state must offer to every child such educational opportunities as will enable him to become an intelligent citizen, prepared to maintain himself and those who may be dependent upon him. Scarcely less universal is the principle that it is the duty of the state to compel the child to accept such educational opportunity.

It must be granted that in certain extensive sections of the country enforcement of laws providing for the education of children and the restriction of their labor is not seriously undertaken. Even in the most progressive states, adequate legislation and effective administration are of comparatively recent origin. But the fundamental conceptions of government forming the basis of our modern laws of child control are very old, reaching back, by way of the early English settlements in Massachusetts and Connecticut, to customs and laws prevailing in England in the period of Elizabeth and before.

It is customary to think of modern compulsory education as having its origin in Germany in the period of the Protestant Reformation. Certainly the principle of universal learning in the interests of the individual as well as the state is announced definitely by Luther. Calvin accepted this principle, applying it particularly to the individual, who, in the process of saving his soul, must come into relationship with God largely through the printed word. The Puritans who settled around Massachusetts Bay in the decade following the year 1628 were staunch Calvinists. They brought with them the austere convictions of their leader, an exalted conception of the value of the Bible, and the determination that every child, as a part of his religious training, must be taught to read. But before they

were Puritans, these men were Englishmen. Long before the religious conception arose which demanded for each child an elementary literary education for his soul's sake, there had arisen an economic necessity which demanded for him an industrial education for his body's sake. It will be the main purpose of this chapter to demonstrate the following theses:

1. That before the close of the sixteenth century England had developed a well defined policy of providing industrial training or education for the children of the working classes.
2. That the training or industrial education of such children was provided for by statute and was compulsory.
3. That the expense of such training or education might be met by public taxation.

It is useless to attempt to trace compulsory education to the laws of Alfred the Great. Scholar and devoted servant of his people though he was, his wish that the youth of England might all be set to learning was apparently never expressed in statute,[1] though prominent historians are fond of attributing to him a law or "doom" enjoining all freemen to send their sons to school.[2] Probably what Alfred did for education had permanent value. It is certain that by the end of the thirteenth century schools were abundant in England, but they were attended by a very highly selected group, with only an occasional exceptional lad from the lower orders of society.[3] Apparently the masses remained practically unschooled until the philanthropic movement of the eighteenth century, yet it is precisely to this class that we must look to discover in its slow advance toward economic freedom that principle of state control which made universal education possible.

The reign of Edward III, 1327-1377, roughly marks a turning point in industrial and social England. The life of the common man in the thirteenth century was hard and uncertain. The feudal system was breaking down. Men were securing a larger degree of personal freedom. Many of the more aggressive and turbulent, released from old restraints, had become outlaws, a constant menace to property and life.[4] Serfs freed

1. Leach, *The Schools of Medieval England,* p. 24 f.
2. For example, Hume, *History of England,* Vol. VI, p. 107 f.
3. Leach, *op. cit.,* p. 206.
4. Nicholls, *History of the English Poor Laws,* 1860, I, 23.

from vassalage could no longer turn to kindly authority in case of need. Pauperism arose, vagabondage became common, the lanes and highways of England were filled with an unemployed and dangerous rabble. Laws of terrible severity[5] had failed to control the growing evils arising from changing conditions. "It is a great law of social development," says Arnold Toynbee, "that the movement from slavery to freedom is also a movement from security to insecurity of maintenance. There is a clear connection between the growth of freedom and the growth of pauperism; it is scarcely too much to say that the latter is the price we pay for the former."[6]

In an attempt to protect society and to control the ever increasing floating population there was enacted the famous "Statute of Labourers,"[7] which, besides providing for the rigorous control of vagrants, both "lusty" and "impotent," fixed wages, regulated prices of commodities, and ordered that all men and women under sixty years of age, not craftsmen, landholders, tradesmen, or regularly employed, should "serve him which so shall require, and take only the wages, livery, meed, or salary accustomed to be given in the places where he oweth to serve."

The authors of this measure evidently proceeded on the assumption that there was sufficient employment at hand for every able-bodied man who was willing to work; that those unwilling to work but able to do so, might be forced to become self-supporting by restraining them from travel and making it illegal for anyone to give them alms; and that the helpless or "impotent" poor should be maintained by the church or by individual charity. Here is found compulsory employment, but with no specific mention of children.

Under Edward's successor, state control of industry was advanced still further. In the fourteenth century as now, labor was being drawn from the country to the town, tempted by the higher wages commanded by the skilled craftsmen. The ranks of labor were greatly depleted at this time by the plague which swept away a considerable portion of the working

5. *13 Edw. I; 2 Edw. III; 5 Edw. III.*
6. *The Industrial Revolution in England,* p. 95.
7. *23 Edw. III* (1360).

population. As a check to the movement cityward, the landed gentry secured the passage of a law designed to control young children, requiring:

"That he or she, which use to labour at the Plough and Cart or other Labour or Service of Husbandry till they be of the Age of twelve years, that from thenceforth they shall abide at the same Labour, without being put to any Mystery or Handicraft."[8]

It appears that about this time the schools, now abundant throughout England,[9] were drawing an appreciable number of boys of the working classes away from the farms. The landholders were deeply concerned at this further depletion of the ranks of their toilers, and the Commons, in 1391, petitioned the king to require that "for the safety and honor of the freemen of this realm," no child of the villein class should be permitted to attend school.[10] King Richard, happily, did not grant this request. The grievance persisted, however, and the matter came before his successor, Henry IV. Henry was unwilling to exclude children of humble parentage from school, yet he recognized the claims of the landholders and evidently shared the apprehensions of the Commons as to the movement to the towns. He therefore confirmed the legislation in control of children, requiring further that no parent not possessed of land or rent to the value of twenty shillings should apprentice his child to any craft or other labor within any city or borough in the realm, but should set him at some other employment. But to this severe regulation the far-sighted king or his advisers added a most significant alternative:

"Provided always, That every Man or Woman, of what Estate or Condition that he be, shall be free to set their Son or Daughter to take learning at any manner of School that pleaseth them within the Realm."[11]

The significance of the closing paragraph of this statute is apparent. Compulsory employment of children, so characteristic of New England two and a half centuries later, was already clearly established. Now for the first time appears legal

8. *12 Rich. II, c 4,* (1388).
9. Leach, *English Schools at the Reformation,* pp. 7-58.
10. De Montmorency, *The Progress of Education in England,* 1904, p. 27.
11. *7 Henry IV, c 17* (1405).

recognition of the right of the child, even of most humble birth, to such education as may be available. Further, attendance at school was made a legal alternative for the regular employment required by the older law.[12]

In the fifteenth and sixteenth centuries, the laws intended to prevent vagabondage and to stabilize industry were further elaborated. The great statutes of Henry VIII, especially, must have been given careful consideration by the most expert lawyers of the time.[13]

Affecting children specifically, was a provision giving local authorities power to take up all between the ages of five and thirteen years who might be found begging or in idleness, and to apprentice them to masters in husbandry or crafts, that they might be taught to gain their own livelihood when they should become of age. Other provisions in these statutes, of importance in this discussion, but affecting children less directly, are those relating to the raising of funds for the care and employment of the poor. Here the church parish became the unit and the church and town officials the administrative agents. All contributions were at first voluntary, and only very gradually did this system give way to taxation.

Ever since it had become firmly established, the church had been the great organized unit of society in all forms of charitable work. From the beginning it had been regarded not only as a duty but as a privilege to minister to the needs of "God's poor." It had regularly set aside a considerable portion of its revenues for this purpose, and on the continent, at least as early as the eighth century, secular law had supplemented church canons in making payments to this end obligatory.[14]

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12. There appear to be no reliable data as to the extent to which boys of the lower classes were drawn into the schools. Tawney, *The Agrarian Problem in the Sixteenth Century*, p. 134, finds that sons of yeomen and artisans were in the grammar schools of the sixteenth century. He observes that at the beginning of that century "the upper classes have not yet begun to covet education for themselves sufficiently to withhold it from the poor." It seems fairly certain that the "poor" in whose interests many of the earlier educational foundations were established were not of the peasant or yeoman classes, but rather of the gentler born who were not rich enough to patronize more expensive schools. See Dobbs, *Education and Social Movements*, p. 91; also Leach, *op. cit.*, p. 109.

13. *22 Henry VIII, c* 12 (1530); *27 Henry VIII, c 25.*

14. Ashley, *English Economic History*, p. 307.

In England in the eleventh century, one-third of the tithes of the church had been devoted to the poor under the legislative sanction of Ethelred and his Witan.[15]. Though these laws had probably been neglected and forgotten long before industrial changes had made poverty a subject of state concern, the church, more particularly the monasteries, remained the principal alms-giving institution up to the Reformation. But even before Henry suppressed the monasteries, the established means of ministering to the poor had become inadequate.[16] In 1392 it was made obligatory upon every parish church to set aside annually a suitable sum for the relief of needy parishioners.[17] The poor laws of Henry VIII set up more detailed regulations, made justices of the peace responsible for the distribution of parish funds, and provided minutely for their collection, but expressly stated that the offerings to be received from "the good Christian people" were to be voluntary.[18] Twenty-two years later the next step toward taxation for the support of the poor was taken. Each parish church was required to elect two able persons to be collectors of alms, whose duty it was to "gentellie aske and demande of everie man and woman what they of their charitie will be contented to give wekelie towardes the relief of the Poore." If any able to contribute should refuse to do so, the parson and the church wardens were to "gentillie exhorte him." This failing to bring results, the bishop summoned the reluctant member and endeavored to persuade him, "by charitable wayes and means," to contribute.[19]

The next logical step toward supporting the poor by a general tax on property took place in the reign of Elizabeth. Contributions were still voluntary, but now, after persuasion and kindly entreaty had failed, it was provided that the brother of "forwarde or willful minde" should be bound over to appear before the justices at their next session, who were to "charitably and gentelly persuade and move the said ob-

15. *Ibid.*, p. 308.
16. *Ibid.*, p. 331ff.
17. *15 Rich. II, c 6.*
18. *22 Henry VIII, c 12* (1530).
19. *5 & 6 Edw. VI, c 2.*

stinate person textend his or their Charitee towardes the Relief of the Poore." In case he still refused, these officers were directed to lay a definite assessment upon him. For failure to pay this assessment, the reluctant almoner might be imprisoned until the sum had been paid, "together with the arrerages therof yf any suche shall fortune to bee."[20]

Ten years later the law was amended,[21] empowering justices for the first time to tax and assess weekly charges for poor funds to provide employment for "rogues and vagabonds." The next step, 1575, authorized the use of these funds to provide employment for children and to accustom them to work, as a prophylactic against vagabondage and pauperism.[22]

In 1597 and 1601 the final steps were taken in the development of the poor law to the state in which it is found when compulsory education laws appear in the Massachusetts records.[23] In these laws of Elizabeth still more definite provision was made for the compulsory support of the worthy poor, for the industrial training of children, and for apprenticing those whose parents were not able to maintain them.[24] These statutes may be regarded as acts of consolidation and simplification. The experiences of three centuries in dealing with vagrants, with the unemployed, and with the poor and their children, are brought together. Defective as these regulations now appear, they were the best the period could devise, and their influence in the following century both in England and in America is difficult to estimate.[25]

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20. *5 Eliz., c 3* (1563).

21. *14 Eliz., c 5* (1572-73).

22. *18 Eliz., c 3.* The section of the statute dealing with this subject leads thus quaintly up to the specific orders of the law: "Also to the Intente Youthe maye be accustomed and brought up in Laboure and Worke, and then not lyke to growe to bee ydle Rogs, and to the Entente also that suche as bee alredye growen up in Ydleness, and so Roges at this present, maye not have any juste Excuse in sayeng that they cannot get any Service or Worcke—and that other poore and needye maye bee set on Worcke: Bee yt ordeyned and enacted . . . ." etc.

23. *39 Eliz., c 3 & 4; 43 Eliz., c 2.*

24. It is not possible to determine the approximate number of children who were receiving this form of compulsory industrial training. The number must have been considerable, for it is estimated that in the later years of Elizabeth nearly a third of the people of England were recipients of charity. Bruce, *Economic History of Virginia*, 1896, Vol. I, p. 582.

25. See Ashley, *English Economic History*, p. 366.

It is not probable that Englishmen accepted with universal enthusiasm the principles of compulsion as they appeared in the process of their slow development. The fact that a small group of radicals in a new country found it immediately desirable to employ them all with several important modifications and additions is not conclusive evidence of their popularity. Ashley says that the compulsory poor rate, or tax, probably excited much the same indignation as does the school board rate of to-day. Gibbins, referring to the same thing, says, "It was no longer a free act of Christian charity, but a compulsory contribution toward the mitigation of a social evil, a contribution of the same nature as the nineteenth century poor-rate.[26]

Nor was there a universal attempt to enforce all the provisions of the law. Where the voluntary system brought in sufficient funds, the old plan stood for a hundred years.[27] But the operation of this legislation in England is of little concern in this study. It is not probable that any of these laws were regarded as educational at the time, though the portions dealing with apprenticeship to the crafts are now seen to have very direct educational bearing. These regulations, says Cunningham, as a scheme of technical education for artisans were admirably suited to the needs of the times. The apprenticing of pauper children, too, was educational, in that they were at least taught to earn a living. Public effort in this direction was later supplemented by private beneficence, and institu-

26. Gibbins, *Industry in England,* p. 261. Tawney, *op. cit.,* p. 269, is almost dramatic in showing how, in a gradual process of political evolution, government arrives at the Elizabethan program of public control, support, and industrial training of the poor under compulsory assessment or tax. He says: "Governments make desperate efforts for about one hundred years to evade their new obligations. They whip and brand and bore ears; they offer the vagrant as a slave to the man who seizes him; they appeal to charity; they introduce the parish clergy to put pressure on the uncharitable; they direct the bishops to reason with those who stop their ears against the parish clergy. When merely repressive measures and voluntary effort are finally discredited, they levy a compulsory charge rather as a fine for contumacy than as a rate, and slide reluctantly into obligatory assessments only when all else has failed."

27. Ashley, *op. cit.,* p. 360. See also Nicholls, *History of the English Poor Law,* Vol. I, p. 253, and Charles Richmond Henderson, *Modern Methods of Charity,* pp. 167-172. The transfer of authority in the administration of the poor law from the church to the state was a gradual process.

tions were established in which children were taught certain useful arts.[28]

Meanwhile, the literary education of the masses had not fared well. There was no attempt or apparent desire on the part of the government to place learning, in the accepted sense of the term, at the command of the common people.[29] The schools which might easily have developed into elementary state-controlled schools were destroyed by Henry VIII under the first Chantry act.[30] The Reformation did not affect England as it did Germany and the other protesting countries. During the undisputed sway of the Catholic church there had been a demand for highly educated priests and teachers, but literary learning on the part of the commonalty was not regarded as necessary. Under the leadership of the Protestant Reformers the education of all was stressed from the first,[31] and the idea not only of affording opportunity to all to acquire at least a knowledge of reading, but of actually requiring the attainment of such knowledge, was not foreign to the thought of the day. But the English were not disturbed by this new doctrine, except as they were reached from without by the Lutheran or Calvinistic teachings. The more radical English Protestants, later known as Puritans, had, of course, come under the influence of Calvinism in its educational as well as its ecclesiastical principles, and though it was not possible, in England, to require education by secular law, beyond that industrial training which had for a long period been given to the children of the poor, their higher law of conscience doubtless did require that all children be taught to read the Bible. Accustomed, as the Puritans had been for years, to the industrial training of the poor at public expense, it was not to prove difficult, in the small and relatively democratic group in America, to attach to the industrial program learning in

28. Cunningham, *English Industry and Commerce,* p. 52; also Hutchins and Harrison, *History of Factory Legislation,* p. 3.

29. In 1662 an act was passed under which instruction in both letters and industry was given to children of the poor in London. Dobbs, *ibid,* p. 96. There is evidence that in the time of Elizabeth certain parishes were giving aid in specific cases in tuition for both elementary and advanced literary instruction. De Montmorency, *State Intervention in Eng. Ed.,* p. 67.

30. Leach, *English Schools at the Reformation,* p. 3.

31. Parker, *History of Modern Elementary Education,* ch. 3.

letters as well. It is by no means insignificant that in Scotland, even before the Reformation, there was a movement towards compulsory education for the sons of nobles and freeholders,[32] while under Protestant influences elementary schools were made compulsory upon the parishes in 1616.

Step by step, through a period of three hundred years, England had evolved certain principles of state control upon which rest our modern democratic systems of public education. There has been a complete reversal of ideals regarding the productive labor of children, yet in the development of recent compulsory vocational education there is striking similarity in aim.

In conclusion, the more important principles of public control revealed in this brief consideration of the English Poor Law, and appearing more or less distinctly in later American legislation regulating the schooling and employment of children, may be summarized as follows:

1. The state may control the movements and the employment of the poor.
2. The state may compel the local community to care for its unemployed and its poor, and may require that funds for these purposes be raised by general tax.
3. The state recognizes the value of the regular employment of youth, both in its relation to the economic independence of the individual and its effect upon his moral character.
4. The state may not only require that all children be employed, but it may determine the nature of the employment.
5. Though the regular, productive employment of youth is desirable, attendance at school may always be accepted as a satisfactory substitute.
6. The state may require the local community to train or educate its children in industry.
7. The state may require the local community to take children from parents unable to support them, and bind them out as apprentices to learn a trade.
8. The state may require the local community to tax its members to support industrial training or education.

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32. Strong, *History of Secondary Education in Scotland*, p. 32.

CHAPTER II

COMPULSORY EDUCATION AND CHILD LABOR IN THE COLONIAL PERIOD

Long before the first settlements were established in America, the tradition of the compulsory care and industrial training of the children of the poor had become firmly established in English law. It remained for colonial New England to add the elements of literary education to the program and to extend it to include the children of all classes. Within a single decade after the charter was granted to the Massachusetts Bay Company, a college was set up in the new world, and schools were in operation. In the second decade, both elementary and secondary schools were made compulsory, their support by public taxation was legalized, and parents allowing their children to grow up in either ignorance or idleness were subject to the penalty of the law. The histories of several of the American colonies illustrate the gradual expansion of the early English conception of education, but the limits of the present study permit the examination of materials in Massachusetts and Connecticut only.

Between 1628 and 1640, approximately twenty thousand people, all of English birth, settled around Massachusetts Bay, about four thousand of them settling in or near Boston within the first six years of this period.[1] They were Puritans, representatives, therefore, of the more progressive or liberal element in English politics. It is important to remember that the settlers of Massachusetts Bay were not exiles from their native land, turning away from old customs and laws with anger in their hearts. They were Englishmen, guaranteed under charter full rights as English subjects, they and those to be born to them in the new land, "as yf they and everie of them were borne within the realme of England.[2] They were

1. Fiske, *The Beginnings of New England*, p. 109.
2. *Massachusetts Bay Charter.*

not seeking to escape English law, but held from the king authority to govern themselves as Englishmen. Naturally the government set up in the New World would be established upon English precedents, though the colonists were given full power to enact additional legislation as circumstances might require, the only limitation being that such acts "be not contrarie or repugnant to the laws and statutes of our realme of England."[3]

The best that England had accomplished up to the end of the sixteenth century might be expected in the earliest legislative expression of the new citizens of Massachusetts. They were a select group, well bred, well educated, possessed of the highest religious ideals of the time.[4] It is evident, however, that the saintly character of these early pioneers has been overemphasized by certain of their enthusiastic historians. John Fiske, for example, says of them: "The lowest ranks of society were not represented in the emigration; and all idle, shiftless, or disorderly people were rigorously refused admission into the new community." . . .[5]

Yet the records show that while admission as freemen in the Company was limited to church members and property holders, there were in the Colony from the first many servants and laborers for the control of whom strict laws were at once enacted.[6] The records further show that almost from the first the magistrates were obliged to deal not only with petty crime but with offenses as black as those which stain the records of modern courts. Attention is called to these conditions, not as a reflection upon the character of the splendid men and women who broke the way into the New England wilderness, but as a reminder that they were typical Englishmen of the Puritan group, no worse, perhaps not greatly superior to the three or four million who remained at home.

The task of establishing government was not a formidable

3. *Ibid.*

4. Dexter, *History of Education in the United States,* p. 24; Palfrey, *History of New England,* p. 277.

5. *American and Political Ideas,* p. 21.

6. *Records of Colony of Massachusetts Bay,* I, pp. 76, 77, 81, 84, 88, etc. See also the Governor's letter on care of servants, April 21, 1629; *Ibid.,* p. 396 ff.

one. Records indicate that there was no break in English customs. English laws prevailed except when lack of precedent, both in English statutes and the Bible forced them to initiate new legislation[7] Through the General Court and in town meetings the Massachusetts freemen fixed wages,[8] provided for the poor,[9] ordered that poor children be apprenticed and taught a trade,[10] laid severe personal restrictions upon members of the community,[11] quite after the fashion of their fellow Englishmen across the sea.

As has been demonstrated in the preceding chapter, the people of England had gradually grown accustomed to definite public control of the poor. In America the idea of compulsion was extended so as to bring the entire population under various forms of control formerly reserved for certain classes. Compulsory employment of children was stressed in much the same fashion as in England, except that in New England the children of all classes became the objects of public solicitude. The Governor urged at the first that "all apply themselves to one calling or other, and noe idle drones bee permitted to live amongst us.[12] The economic as well as the moral value of child labor was appreciated, as evidenced by the approving comment of the Reverend Mr. Higgeson, who wrote in 1629 of Marbleharbor, near Salem: "Little children here by setting of corne may earne much more than their own maintenance."[13]

By 1640, the General Court was considering ways and means of utilizing labor of children to increase the economic efficiency of the colony. A larger supply of linen being desired, the Court in its May session gravely considered "what course may bee taken for teaching the boyes and girles in all towns the spining of the yarne."[14] A year later, the Court in further

7. *"Good News from New England,"* 1648. In *Collections Mass. Hist. Soc.*, Series 4, Vol. VI, p. 205.

8. *Records of Colony of Massachusetts Bay*, I, p. 76.

9. *Ibid.*, p. 122.

10. *Plymouth Colonial Records*, II, p. 38.

11. *Cambridge Record*, p. 108; *Baintree Records*, p. 5; *Records of Col. of Mass. Bay*, I, p. 140.

12. *Records of Col. of Mass. Bay*, I, p. 405.

13. *Collections Mass. Hist. Society*, I, p. 118.

14. *Records of Col. of Mass. Bay*, I, p. 294.

consideration of the economic welfare of the community again ordered the employment of children, implying that the English practice of instruction in industry was beginning to fall into disuse. The entry is in part:

"And it is desired & wilbe expected that all masters of families should see that their children & servants should bee industriously implied, so as the mornings & evenings & other seasons may not bee lost, as formerly they have bene; (& if it bee so continued will certeinly bring us to poverty;) but that the honest & profitable customs of England may bee practised amongst us so as all hands may bee implied."...[15]

The following year, 1642, marks the first great advance over English legislation in the control and instruction of children. The law of that year is one of the most famous bits of educational legislation in history. It sums up the English procedure regarding instruction of the children of the poor in productive industry, but, going further, extends the requirements to include all children; it enjoins upon the towns the duty of holding children steadily to their tasks; gives directions for dealing with delinquents; and for the first time in English history provides for the literary instruction of every child.[16]

This is strictly a compulsory education and child labor law. Its provisions concerning the labor of children were, of course, almost exactly the reverse of the modern conception of what such a law should be; it made no schooling requirements and

15. *Ibid.*

16. *Ibid.*, II, pp. 6-7. The law is repeated with very slight variation on pages 8-9 of this volume. Its salient points are as follows

1. It recites the neglect of parents and masters in "training up their children in learning and labor, and other imployments which may be profitable to the common wealth."

2. It charges the selectmen of the various towns with the correction of this evil.

3. For neglect of this duty, the officials are made subject to fine or other punishment.

4. A standard of literary education is fixed, children being required to read and to understand the principles of religion and the capital laws of the country.

5. The officials were given power to impose fines on parents and masters who refused to comply with the law.

6. The officials were given power, any court or magistrate consenting, to apprentice children whose parents or masters were found unable or unfit to care for them properly.

7. Adequate provisions were made for the enforcement of the measure.

provided no schools, but it made provisions for enforcement which were equalled by few if any of the schooling and labor laws prior to the twentieth century,[17] and anticipated some of the principles of modern industrial education.

To what extent the law of 1642 was enforced in those early years, the records do not reveal. It is certain, however, that its machinery was capable of operation, and that in Massachusetts and later in Connecticut individuals were prosecuted for its violation.[18]

No further legislation of a general character regarding the employment of children seems to have been found necessary. The act of 1642, which was "to continue for two years, and till the Court shall take further order," was reënacted in 1648 with changes intended to strengthen it and render its provisions more specific, and in its revised form it continued to appear in the codes of both Massachusetts and Connecticut until the English Government, under Andros, took back the charter.[19] The poor-laws of the colonies, also, reveal something of the public attitude towards children and the passion for bringing them up in habits of industry. Only later was there evidenced in this legislation concern for the literary education of the poor. For example, in 1658, long before there is a record of a school in the place, the Court at Plymouth directed Captain Josias Winslow and Constance Southworth to coöperate with the Treasurer in the erection of an addition to the jail, such addition to be used as a house of correction to which all idlers, vagrants, and "rebellious children and servants" were to be brought, properly disciplined, and set to work.[20]

The Province Charter, 1692, sums up in a single sentence the sentiment and practice of the time, affording, also, precedent for the truancy laws of the second half of the nineteenth century, in enjoining the overseers of the poor to see that

17. Elizabeth Otey, *Woman and Child Wage-Earners in the United States,* Vol. VI, p. 15. *Senate Doc. No. 645,* 1910.

18. *Rec. of Col. of Mass. Bay,* III, p. 102; *Watertown Rec.,* pp. 103-114.

19. Jernegan, "Compulsory Education in the American Colonies," *School Review,* Dec., 1918, pp. 740-744. Note: In 1650, the educational and industrial laws of Massachusetts were embodied without material change in the Connecticut Code.

20. *Plymouth Records,* XI, p. 40.

children "not having estates otherwise to maintain themselves, do not live idly and mispend their time in loitering, but that they be brought up or imployed in some honest calling, which may be profitable unto themselves and the publick."[21]

The law contemplated that all poor children would be bound out to learn a trade or to master some form of industry.[22] A few years later an educational clause was added to the provisions for apprenticing poor children, their masters being required to teach them "to read and write as they may be capable." In 1710 and in 1771 the educational clause underwent slight changes which throw some light on the education of girls in the eighteenth century. In the former year, overseers of the poor were directed to cause bound children to be taught, "males to read and write, females to read, as they respectively may be capable."[23] In 1771 it was provided that boys be instructed in "reading, writing and cyphering," girls in reading and writing, "if they be capable."[24] The development of laws for the employment and education of poor children in Connecticut did not differ essentially from that in Massachusetts, and throws little additional light upon the progress of public control.

Apparently the highest point in Puritan educational ideals was reached in the year 1647. Compulsory education both in industry and letters had been provided for by the measure of 1642. Under this act no schools had been required, but the responsibility of fulfilling its educational obligations was laid directly upon parents and masters of children. There is evidence that elementary or at least dame schools were quite common at that time, and in the larger towns Latin Grammar Schools similar to those of England had been set up.[25] But

21. *Mass. Acts and Resolves,* Authorized Edition of 1867, Vol. I, p. 67.

22. Those who would not work were taken to the house of correction for special treatment. On entering, each, without regard to sex, was given not to exceed ten strokes of the whip on the bare back.

23. *Acts and Resolves of the Province of Massachusetts Bay,* Vol. I, p. 538. *Ibid,* p. 654.

24. *Ibid.,* Vol. V, p. 162. It is to be borne in mind that this legislation refers only to children who came under the supervision of the overseers of the poor. The law of 1642 required both parents and masters of apprentices to teach children in their charge to read.

25. *Collections Mass. Historical Society,* Vol. I, pp. 240-243; IX, p. 160.

the fear of illiteracy was in the hearts of the Puritan leaders.[26] Their religion demanded that all be able to read, and, in order to insure to the children of every community the educational opportunities voluntarily provided by the most progressive, the famous compulsory school law of 1647 was enacted, the following being its most important provisions:[27]

1. A master able to teach reading and writing in every community of fifty families.
2. A grammar school in every town of one hundred families with a master able to prepare the boys for admission to the university.
3. Teachers to be paid either by parents or masters or by means of a general tax.
4. A penalty of five English pounds upon any community failing to meet the terms of the law.

Dr. George Martin discovers in the two laws of 1642 and 1647, six principles upon which our modern public school systems are largely based.[28] They are:

1. The universal education of youth is essential to the well-being of the state.
2. The obligation to furnish this education rests primarily upon the parent.
3. The state has a right to enforce this obligation.
4. The state may fix a standard which shall determine the kind of education and minimum amount.
5. Funds may be raised by a general tax to support such education.
6. Education higher than elementary may be supplied by the state.

It will be observed that practically all these principles are at least dimly outlined in the various measures developed in England during the three centuries preceding the emigration to America.[29] It will also be observed that but two elements are now lacking to include all that make up the modern compulsory education law, an attendance requirement and freedom of the child from labor during the school period. Neither of these principles appears in the American school systems un-

26. "New England's First Fruits," 1643; in *Collections Mass Historical Society*, Vol. VI, p. 242.

27. *Rec. of Col. of Mass. Bay*, II, p. 203.

28. *Evolution of the Mass. Public School System*, p. 13.

29. See Chapter I.

til the nineteenth century; the acceptance of the latter involved a fundamental change in the conception of the child's economic status.

The law of 1647 left the question of school support entirely to the community. It merely required that schools be maintained. The support of public enterprise by general taxation was well established by this time, but the general policy of meeting the entire expense of elementary and secondary education in this way was deferred to the nineteenth century. Few, if any, of the early schools were entirely free. Of seven important grammar schools in Massachusetts, Martin finds no two maintained in the same way.[30] Frequently lands were set apart either by the Court or by the town, the income to be used in partial payment of a master.[31] Again, lands were made over to a faithful teacher as partial compensation for his services, or sold and the proceeds used for the purpose.[32] Often a rate was levied on all patrons of the school able to pay, the town voting funds to provide for the education of those of restricted means.[33] But back of all this liberty as to methods of support was the authority of the state now able to require that each town support its school or pay a fixed penalty.

But the promise of the earlier years was not fully realized.[34] The sons of the second and third generations were not able to maintain the high standards of their fathers. Some of the causes are obvious. The Puritan leaders were picked men, men of more than average intelligence and education, certainly men of lofty ideals and for the most part highly religious. The laws of normal distribution of ability, piety, and other human qualities would tend to level down in the succeeding generations those attributes which, through selection, were

30. *Op. Cit.*, p. 48.

31. *Rec. of Col. of Mass. Bay*, IV, pt. 1, pp. 397, 400. *Baintree Records*, p. 9.

32. *Publications Colonial Society of Mass.*, Vol. XVII, p. 135. Cambridge, town meeting, Sept. 13, 1648: "It is agreed at a meeting of the Whole Towne, that there should be land sould of the Comon to the gratifying of mr. Corlet, for his paines in keeping a schoole in the Towne, the sume of Ten pounds, if it can be attained, provided: it shall not prjudice the Cow comon."

33. *Hartford Town Votes*, I, pp. 63, 65. *Baintree Records*, p. 18.

34. See Updegraff, *The Origin of the Moving School in Mass.*, 1908, Ch. VII.

abnormally high in the first. Then many able men, few of the lower ranks, returned to England.[35] Bitter warfare with hostile natives brought prosperous colonies to poverty.[36] The witchcraft madness seriously affected parts of the colonies during the later decades of the century.[37] All of these influences, together with the unavoidable hardships of pioneer life, the lack of leisure, and the added fact that all education above the rudiments led directly to the college, serving no other recognized purpose, effected a steady decline in educational standards during the later years of the seventeenth century, extending through the first half of the eighteenth.[38]

Many towns were presented in the later years of the seventeenth century for failure to provide the required schools.[39] In Massachusetts the penalty for such failure was doubled in 1671[40] and again in 1683. In the latter year it was required also that in case a town had increased to five hundred families two writing schools and two grammar schools should be maintained. The increase in penalty may be regarded as an indication that certain towns had found it less burdensome to pay the fine than to keep up a school.

Throughout the colonial period, educational and economic conditions remained much the same in Massachusetts and Connecticut. In the latter colony there is excellent evidence that though zeal in the education of children might lag, there was no lack of interest in their productive capacity. Apparently the long school year interfered with the industrial program, for in 1690 the General Court reduced the period during which the elementary school must be in session to six months be-

35. Josselyn, *Collections Mass. Historical Society*, Series 3, Vol. III, p. 384.

36. *Old Colony Historical Society Collections*, II, p. 13.

It is said that at the close of King Philip's War, 1675, of eighty towns ten had been destroyed or abandoned, and a large portion of the rest had suffered heavily; one man in every ten of military age had fallen; a debt had been created exceeding, in Plymouth, the entire value of personal property.

37. See the diaries of Cotton Mather and Judge Sewell in *Mass. Hist. Society*, Series 7, Vol. VII, p. 150; and Series 5, Vol. V, pp. 358-365.

38. Weedon, *Economic History of New England*, I, p. 220.

39. For examples see *Dorchester Town Records*, in *Report of Record Commission of Boston*, Vol. V, p. 84. *History of Newbury*, p. 124; *Early Records of Lancaster*, p. 172.

40. *Rec. of Col. of Mass. Bay*, IV, pt. 2, p. 486. *Ibid*, Vol. V, p. 414.

cause of "the necessity many parents or masters may be under to improve their children and servants in labour for a great part of the yeare."[41] This action limited the educational opportunity of the children of the humbler class, as the Grammar schools, attended by the select and wealthier group, were not affected by the order. The thrifty lawmakers were seemingly more eager to "improve" their children in labor than in learning.

Singularly enough, at this same time the Court records the discovery that "there are many persons unable to read the English tongue, and thereby uncapable to read the holy word of God, and the lawes of the Colony." Parents and masters were, therefore, strictly enjoined to "cause their respective children and servants as they are capable, to be taught to read distinctly the English tongue.[42] There is no evidence that any member of the Court was impressed by the inconsistency of the two measures.

In 1700 the Connecticut Code was again revised, bringing it to the general form, in which it remained down to the closing years of the century. Under this code every town of seventy families or upward was required to "be constantly provided of a sufficient schoolmaster to teach the children and youth to read and write." In towns of less than seventy families a master was to be maintained for half of the year. In each of the four "county towns" a grammar school was required, "and some discreet person of good conversation, well instructed in the tongues, procured to keep such a school." At this time a regular tax of forty shillings per thousand pounds was laid upon property for the support of schools.

In Massachusetts, King William's Charter displaced the old organization in 1691, but the first Assembly reënacted the compulsory school and education laws. At its second session the essential features of these laws were restated in the last section of a measure entitled, "An act for the settlement and support of ministers and schoolmasters."[43] This act indicates the

41. *Connecticut Records*, IV, p. 31.

42. *Ibid.*, p. 30.

43. *Acts and Resolves of the Province of Massachusetts Bay*, Vol. I, pp. 62, 63.

high degree of compulsion still attaching to the religious as well as the educational practices of the Colony. If a town neglected to supply itself with an "able, learned, orthodox minister or ministers, of good conversation, to dispense the word of God to them," it became the duty of the Court of Quarter Sessions to procure a minister, settle him, "and order the charges thereof and of such minister's maintenance to be levied on the inhabitants of such town."

Schools were required, as in the law of 1647, an elementary school throughout the year in towns of fifty or more families, a grammar school in addition if there were one hundred families or above. The law required that the schoolmaster be "suitably encouraged and paid," and for the first time included town officials in fixing responsibility for carrying out the provisions of the law.[44] In some respects the requirements were less severe than in 1683. The larger towns were no longer obliged to maintain two schools of each type, and the penalty for infraction was reduced from twenty pounds to ten pounds.

But the spirit of the time was against enforcement. In 1701 several important changes were made in an attempt to secure more adequate administration. The new law opened with a recitation of the provisions of the preceding measure which, it appears, "is shamefully neglected by divers towns, and the penalty thereof not required, tending greatly to the nourishing of ignorance and irreligion, whereof grievous complaint is made."

In the revision of 1701 the following changes are most significant:

The former penalty of twenty pounds, about one-fourth of a Grammar master's salary at this time, was restored.

It was provided that the master should be approved by a special committee consisting of the minister of the town and the ministers of the two towns next adjacent.

It was decreed that no minister should function also as a schoolmaster.

Justices of the peace were to put the law in force, and grand jurors were enjoined to "diligently inquire and make presentment of all breaches and neglect of said laws."[45]

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44. The "selectmen" as well as the "inhabitants" were charged with the duty of supporting the schools and enforcing the law.

45. *Acts and Resolves, op. cit.*, p. 470.

The province law of 1701, practically closes the Colonial compulsory school legislation in Massachusetts. In the law itself is evidenced the growing apathy of the people towards the schools. Neglect of the legal requirements were common; towns were openly failing either to maintain schools or to enforce the penalty; some must have sought to meet the letter of the law by constituting the minister schoolmaster; others had supplied their schools with teachers not able to meet the scholarship requirements. "Schools were half neglected in many districts; in a few they were totally neglected.[46] There is, to be sure, abundant evidence that certain towns were trying to enforce the law, but even here records often show the educational limitations of those who kept them.[47]

This period, running through the first quarter of the eighteenth century, has been called "the dark days of New England," in education and social culture. Learning, so hopefully fostered by the fathers, had fallen upon evil days.

The really big men of the earlier century, those with vision, had passed on. Men who, in the later years of the eighteenth century, were to give character to a new nation, had few prototypes in this troubled time. The hardships of frontier life, combat with savage beasts and men, with all Nature's hostile forces, had done their work. A generation had arisen that "knew nothing of a refined humanity, knew but little even of the justice which should let men go free." Here was a disease too deeply seated for compulsory school laws to reach, for such laws could not be put into action.

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46. Weedon, *Economic and Social History of New England,* p. 419.

47. The following examples from the *Watertown Records* are illustrative: "Willyam priest John Fisk and George Lorance being warned to a meetting of the select men at John Bigulah his house they makeing their a peerance: and being found defecttive weer admonished for not learning their Children to read the english tong: weer convenced did acknowlidg their neglects and did promise a mendment." *(Watertown Records,* p. 103, Dec. 13, 1670.)

Again a committee of selectmen had been appointed to go through "their ceuerall quarters to make tyrall whether Children and servant be eaducated in Learneing." The report of the examining committee which follows is characteristic of many other entries made by those duly elected to "ceep the Towne boke." "nathan fisk, John whitney and Izack mickstur meacking return of thear in quiry aftur childrens eddvcation find that John fisks children ear naythur taught to reed not yet thear caticise." *(Ibid.,* p. 114, Nov. 25, 1672.)

Prosperous times followed the years of stress and hardship in New England, and men were carried away with a passion for gain. Yet in the growing economic prosperity there was much of promise for education. On the surface there may have been little to offer encouragement, but there was stirring among men everywhere a spirit which presently manifested itself in the keen intellectual movement preceding the Revolution. The old compulsory school laws were still nominally in force, but the schools they were intended to foster did not meet the needs of the new period. Democracy was developing; it could not make use of the educational tools of a society organized with frank recognition of rank and class, so these old laws were never revived. Their principles remained to become the foundation of our modern compulsory legislation but could serve no other purpose until, in the first century of the national period, new economic and social conditions made it again possible for the state to lay a guiding, controlling hand on education.

CHAPTER III

EDUCATION AND CHILD LABOR IN THE EARLY NATIONAL PERIOD

As stated in the introduction to this study, the history of the compulsory education of children and the regulation of their employment in the United States may be divided roughly into three periods. It is the purpose of this chapter to present a general view of the educational and industrial situation near the close of the first period, and to locate the problem of school attendance in its relation to labor at the opening of the second. In succeeding chapters, the advance through the second period and into the third will be traced in a small group of representative states.

In the early years of our national life the small group of states that had developed systems of education in the colonial period provided for public schools either in their constitutions or by statute. In these provisions the principle of compulsion was less stressed than formerly. Connecticut had long before reduced the number of required grammar schools to one in each county. Now not even these were compulsory unless determined upon by a two-thirds vote of the community.[1] Massachusetts, the stronghold of compulsory education from the beginning, in her constitution gave the legislature power to provide for the education of children and to compel their attendance at school.[2] The law establishing a state school system enacted in 1789[3] was largely a reënactment of the Province law, requiring a school in every community, but without attempt to regulate attendance.

To a surprising extent the American public school system, free everywhere and almost universally compulsory, rests upon the early laws to regulate the labor of poor children and to

1. Steiner, *Hist. of Ed. in Conn.*, p. 35. Law of 1798.
2. *Const. of 1780, Art. iii.*
3. *Laws and Resolves of Mass.*, 1788-9, ch. 19.

secure for them the elements of learning. In the later years of the eighteenth century, England discovered a new use for the children of this class. Those hitherto regarded as a burden upon society or upon their parents were found to have an appreciable money value as operators in the textile mills, where only dexterity and constant watchfulness were required. The story of England's shame in the exploitation of young children in her mills and factories is familiar. Not so well known is her splendid battle, first, for the relief and elementary education of her poor, then, for the gradual development of an educational plan, now rapidly rounding out into an adequate national system fairly well adapted to the needs of every child, free, and compulsory. Neither story can detain us here; both were roughly paralleled in the United States.

There was nothing new in the English system of apprenticing the children of the poor; it had been going on for four hundred years. The "laudable custom" had been well established throughout the colonies. It was the new industrial condition which led to its serious abuse, and only time could reveal these evils. What the American people heard was news of prosperity, of greatly increased family earnings, of profitable employment for women and children left destitute by the wars. Factories similar to those of England were being established in America. In the latter part of the eighteenth century, plans were under way in several states to utilize the labor of children. Alexander Hamilton, keen-minded, far-sighted master of finance, was active in fastening the curse of factory labor upon the children of the new republic. His communication of December 5, 1791, to the National House of Representatives is a clear statement of his attitude towards the employment of youth.[4] In it he emphasized the significance of the new machinery then coming into general use in the textile mills of England, by which, he said, all the processes involved in the spinning of cotton could be performed by a few machines, "attended chiefly by women and children." He argued that the establishment of these industries on a proper basis in this country would enable the industrious to devote their leisure time to this new work "as a resource for multiply-

4. *Works of Alexander Hamilton,* Vol. III, p. 313; Henry Cabot Lodge, Ed.

ing their acquisitions or their enjoyments," and notes the further advantage offered of the "employment of persons who would otherwise be idle, and in many cases a burden on the community." He continues:

"It is worthy of particular remark that, in general, women and children are rendered more useful, and the latter more early useful, by manufacturing establishments, than they otherwise would be. Of the number of persons employed in the cotton manufactories of Great Britain, it is computed that four-sevenths, nearly, are women and children, of whom the greatest proportion are children, and many of them of a tender age."[5]

There is evidence that before this time the desirability of establishing factories had received considerable attention, and that their importance in affording employment to children, particularly to poor children, had not been overlooked. In a petition to the Massachusetts legislature in 1789 for power to incorporate for the manufacture of cotton it is recited, among other anticipated advantages, that "it will afford employment to a great number of women and children, many of whom will otherwise be useless, if not burdensome to society."[6]

It is possible that during the earlier years of factory development, the child at work in the mills was better cared for, morally and intellectually, than his neighbor not thus employed. The public schools were in a low state of efficiency, and those most in need of free education would be the least likely to attend them unless compelled to do so. On the other hand, philanthropic manufacturers sometimes maintained "factory schools" for their young "apprentices."[7] To the point is the record of the efforts of the cotton manufacturer, Samuel Slater, in behalf of his youthful employees. In 1790 he was in charge of a mill at Pawtucket, Rhode Island, where children from seven to twelve years of age were employed, full time, six days in the week. Many of these were children of very poor parents, and "had had small opportunities for even an elementary education."[8] In the interests of these children

5. *Ibid.*, p. 314.

6. Bagnall, *The Textile Industries of the United States*, p. 91.

7. Bagnall, *op. cit.*, p. 493.

8. Bagnall, *Samuel Slater and the Early Development of the Cotton Manufactures in the United States*, p. 49.

Mr. Slater established a Sunday school in his own home, at first teaching it himself, later securing as instructors students from Rhode Island College, now Brown University. Bagnall believes this to be the first Sunday school in New England. Like the early Sunday schools of England and the Continent, the aim of this school was not only to improve the morals of the children but to give them elementary instruction in the common branches of learning, also.[9]

With the restrictions upon imports arising from interrupted trade relations with England and ending with the close of the war of 1812, there came a rapid increase in the textile as well as other manufacturing industries. Factories sprang up wherever there was available water-power, and everywhere children were in demand. Active boys and girls from eight to twelve years of age seem to have been especially sought after,[10] though there is evidence that children even younger were employed.[11] It is not to be supposed that the children of the poor alone took employment in the mills. Men who became prominent in the early textile industries had acquired the knowledge of the business as apprentices, and they did not hesitate to subject their own sons to the same experience. Bagnall says:

"It was not then an exceptional fact that the children of farmers, mechanics, and manufacturers, in good pecuniary circumstances, should be employed at an age, and with a continuity of labor, which at the present time would be regarded as a hardship, not to be imposed on young children, unless under the pressure of extreme poverty."[12]

It does not appear that the mill schools, dependent entirely upon the generosity or philanthropy of owner or agent for their inauguration and maintenance, were generally established; yet they attracted sufficient attention to be accepted by many as a possible solution of the problem of educating the children of working people.[13] The consequences of calling considerable numbers of young children into steady, full-time em-

9. *Ibid.* School established 1793.

10. Bagnall, *op. cit.*, pp. 197, 489.

11. *Woman and Child Wage-Earners in U. S.*, Vol. vi, pp. 49, 53.

12. *Op. cit.*, 512.

13. For example, see *Report of N. Y. Supt. of Common Schools to Legislature*, Jan. 29, 1828, p. 13.

ployment were beginning to appear. It was clear that to avoid the lapse of a large portion of society into gross ignorance, working children must be schooled. Connecticut led in the legislative program, by enacting a law looking to the welfare of factory children and requiring that they be given instruction in the common branches.[14] Col. David Humphreys, a philanthropic manufacturer, a graduate of Yale, and formerly aid-de-camp to Washington, was the moving spirit in securing the law of 1813.[15] He employed in his mills at Humphreysville a considerable number of children, many of them "apprentices" from New York almshouses. His system for the education and training of these children attracted attention, and was described by President Timothy Dwight, of Yale, who visited the plant in 1811.[16] He was evidently more favorably impressed than was Josiah Quincy, who passed that way ten years earlier, and who found that the children appeared dull and dejected as they carried on their work "in a contracted room, among flyers and coggs, at an age when nature requires for them air, space, and sports."[17] But at any rate, the children in such mills as those of Slater and Humphreys, where they received the elements of an education, fared better intellectually than those of the same class not so employed.[18] These advantages Col. Humphreys sought to have extended to all the factory children of the state. The chief requirements of the law are:

1. The management of factories to cause all children in their employ to be instructed in reading, writing, and arithmetic.
2. Attention to be given to morals; regular attendance upon public worship required.
3. The selectmen of the town, or a committee appointed by them, required once a year "carefully to examine, and to ascertain whether the requisitions of this act which relate to the instruction and the preservation of the morals of children employed as aforesaid, be duly observed."
4. Penalty for violation on the part of the mill manage-

14. *Conn. Laws*, ch. 2.

15. For an excellent sketch of Col. Humphreys' public service and private enterprise, see Bagnall, *op. cit.*, pp. 347-359.

16. *Ibid.*, p. 352ff; quoted from *Dwight's Travels*, Vol. III, p. 391.

17. *Proc. Mass. Hist. Soc.*, 2nd series, Vol. IV, p. 124.

18. *Hist. of Pub. Ed. in R. I.*, Stockwell, p. 38.

ment, either discharge of the indentures in case of apprenticed children or a fine of not to exceed one hundred dollars, at the option of the Court.

There seems to be no evidence that any attempt was made to enforce this law. It may be regarded merely as the registration of the wish of some of the more philanthropic manufacturers expressed in legislation. There is little reason to believe that there was, as yet, anything like a general recognition of the danger of employing young children during the time when society now agrees that the school should be given right of way. The law was permitted to remain upon the statute books until 1842, but its failure to provide either for schools or for adequate means of enforcement insured its ineffectiveness.[19] Henry Barnard, writing in 1840, reports the law "a dead letter in nearly, if not every town in the state."[20]

Toward the close of the first quarter of the nineteenth century a new force began to make itself felt in the economic and political life of the country.[21] Feebly in the earlier period, slowly and painfully trying out its strength, first through local societies, then by means of more extended organizations, labor sought to disentangle itself from the conditions which, since the breaking up of the feudal system, had held it apart as a class to be legislated for, controlled, patronized, restrained, dealt with in a spirit of kindly philanthropy or of aristocratic authority as might suit the situation. The movement was both political and economic, but it was educational also, and only after it was well under way was a complete state system of education, free and at the same time compulsory, a realized fact anywhere in America. Up to this time there had been no true democracy. The so-called democracy of the Revolutionary period was aristocratic; it granted small power to the common man,[22] rather it patronized him, and in that spirit offered his children a mean and insufficient education which was not always accepted with becoming gratitude.[23] "Democ-

19. Perrin, *Hist. of Comp Ed. in New England*, p. 37.
20. *Second An. Rpt. Commissioners of Com. Schools of Conn.*, p. 24.
21. See J. R. Commons, *Doc. Hist. of Am. Indust. Soc.*, Vol. V, pp. 20-23.
22. Weyl, *The New Democracy*, Ch. 2.
23. *Rpt. Ed. Com. of New England Association of Farmers, Mechanics, etc., in Doc. Hist. Am. Indust. Soc.*, Vol. V, pp. 195-199.

racy, a wage-earning class, and universal education," says F. T. Carlton, "are the social institutions which develop side by side out of the same soil,—one strengthens and protects the other."[24] This thesis seems abundantly verified in the educational history of the last fifty years.

It is not necessary to discuss the origin of the labor movement in this country. It seems not to have arisen from the factory movement,[25] yet it was powerfully stimulated by it. Industrial changes in the opening years of the century brought men together in large groups, socialized them, made them aware of common interests, and made economic and social comparisons more obvious.[26] The workman saw his children entering the mills, denied the opportunities for education enjoyed by the children of his employer,[27] and he began to ask what rights now monopolized by the capitalistic class he and his fellow workmen might hope to possess. As he sought to win a more favorable economic and social status for himself and his children, he found sympathy among his fellow-laborers and developed capacity to coöperate with them. Presently he found himself in possession of a new tool, the ballot, which he must learn to use in advancing his own interests and those of his neighbor. In most of the older states there had been a gradual extension of the suffrage; in the newer ones, manhood suffrage was the rule; it was this universal extension of the ballot which gave character and virility to the labor movement and the allied forces of the period. It is significant that organized labor becoming conscious of power within itself should make as its first demand free and efficient schools supported by a public tax.[28]

Before the working men were sufficiently organized to exert any considerable influence upon legislation, Massachusetts was becoming aware that an industrial-educational problem had arisen. Governor Levi Lincoln, in a public address, had ex-

24. *Education and Industrial Evolution,* p. 5.

25. *Doc. Hist. of Am. Indust. Soc.,* Vol. V, p. 23.

26. Towle, *Factory Leg. of R. I.,* in *Pub. Am. Econ. Assn.,* 3d series, Vol IX, p. 6.

27. Outside New England public elementary education was only for the poor. Carlton, *op. cit.,* p. 27.

28. *Doc. Hist. Amer. Indust. Soc.,* Vol. V, p. 27.

pressed the fear that the new industrial system would foster the formation of an uneducated class. At his suggestion, the Assembly authorized an investigation; a committee was appointed which, after a partial investigation, evidently conducted by means of a questionnaire sent to the manufacturers themselves, submitted a report on June 16, 1825.[29] The committee found that in some cases two or three months a year were allowed for schooling. This apparently was not usual, however, the report stating:

"It appears that the time of employment is generally twelve or thirteen hours each day, excepting the Sabbath, which leaves little opportunity for daily instruction."

The investigators did not believe their findings warranted action, saying:

"The Committee are not aware that any interposition by the Legislature at present is necessary in this regard, but they deem it important that its members in their private and public capacity should see that the requirements of existing laws are respected and enforced."[30]

Apparently the committee was not impressed by the fact that young children were working for twelve and thirteen hours a day, nor did it discuss the effect that this early and prolonged labor might have on their health or on the health of future generations, though it did seem mildly concerned as to the intellectual status of those who might in their turn become proprietors of factories.

In 1836, Massachusetts passed her first law designed both to limit the labor of young children and to provide for their education. It is not clear how much influence organized labor had in securing this legislation. The Working Men's Party had been active in the state and it is said that seven members of the legislature of 1833 were representatives of this organization.[31] It may be assumed that these men and those who elected them had been active in the interests of their program for some years prior to 1836. There had been great changes

29. *Senate Archives No. 8074,* transcript, *Doc. Hist. Am. Indust. Soc.,* Vol. V, p. 57 ff.

30. *Ibid.,* p. 58. See also Otey, *Woman and Child Wage-Earners in U. S.,* Vol. VI, p. 31.

31. Persons, *Labor Laws and Their Enforcement,* p. 11.

in the industrial conditions in Massachusetts and apparently a steady decline in educational ideals during the years of expansion following the tariff of 1816. Perrin says: "Society was divided into sects and classes, not all of which espoused the cause of popular education. Some indeed antagonized such a system."[32] On the one hand, the employer was sometimes intolerant, unwilling to consider the desirability of a more intelligent working class, feeling that his own prosperity depended upon an abundant supply of ignorant labor purchasable at low wages.[33] On the other hand, the workers, encouraged by union, were beginning to examine the industrial situation critically, and were becoming more outspoken. In 1832 the committee on education of the New England Association of Farmers, Mechanics, and other Working Men, made an investigation or rather conducted an inquiry relative to the conditions under which children were employed in the manufacturing industries. From their report the following may be deduced:

1. Two-fifths of all persons employed in New England factories were children between seven and sixteen years of age.
2. The hours of labor were from daylight to eight in the evening.
3. Children could not be withdrawn from the mill to be put in school on penalty of the discharge of the other members of the family.
4. The only opportunity for children to obtain an education was on Sunday, and after half past eight in the evening of other days.[34]

The report of the committee representing the working men of New England stimulated activity in behalf of factory children in Massachusetts. In 1835, James G. Carter, at that time the leading exponent of advanced educational ideals in Massachusetts, entered the legislature. He was made chairman of the committee on education in the House. In 1836 this committee was directed to consider what, if any, provision should be made for "the better education of children employed in

32. *Hist. of Comp. Ed. in New Eng.*, p. 41.

33. Editorial, *New York Morning Herald*, Aug. 25, 1832, in *Doc. Hist. Am. Indust. Soc.*, Vol. V, pp. 113, 114.

34. From the *Free Enquirer*, Boston, June 14, 1832, in *Doc. Hist. Am. Indust. Soc.*, Vol. V, pp. 195-199.

manufactures." The committee found that in four of the manufacturing towns with a population of less than twenty thousand, nearly two thousand children under sixteen years of age were not attending school. It pointed out in its report that industry was demanding the service of young children, particularly girls, who could be secured at low wages; that parents had put their children in the mills through necessity; that the evils resulting from their employment must be corrected "with the least possible interference with the pursuits and interests of individuals."[35]

The committee recommended a bill which, strengthened slightly by the legislature, was enacted into law.[36] This measure was not so strong in form as the useless one placed upon the Connecticut statutes twenty-three years earlier. It consisted of two sections, the first providing that after April first, 1837, no child under fifteen should be employed in any manufacturing establishment unless it had attended some public or private day school, taught by a legally qualified teacher, for at least three months of the preceding year; the second section fixed a penalty of fifty dollars for infraction, to be forfeited by the offending factory owner, agent, or superintendent, for the use of the common schools. No provision was made for the enforcement of the law, but to enable the manufacturer to protect himself an amendment in 1838 provided that no person was to be held liable to the penalty if he obtained a certificate signed by the instructor in the school attended, duly sworn to before a justice of the peace, certifying that the child had received instruction as required by law.[37] This was the first form of schooling certificate, and also the beginning of the use of the affidavit as a means of verifying statements in connection with such certificates, a method later proving most mischievous.

The one outstanding fact in connection with the so-called public free schools up to this time is that they were charity schools, growing in a perfectly natural way out of the English

35. Persons, *op. cit.*, p. 19. *Woman and Child Wage-Earners in U. S.*, Vol. VI, p. 76.

36. *Mass. Laws*, 1836, ch. 245.

37. *Mass. Laws*, 1838, ch. 7.

charity school of the eighteenth century, and roughly paralleling the later nineteenth century schools for the laboring classes in that country. All these schools had their origin, if not in the English poor law, at least in the same combination of aristocratic philanthropy and fear of idle ignorance that made possible the evolution of that remarkable series of statutes. It may not be a cause for pride that we are able to trace the beginnings of our great public school systems to an origin so lowly, but the facts of history are fairly clear in this matter, and in most part point in the same direction.[38] There could be no whole-hearted coöperation of all social forces in the support of education until a common interest in its product was possible. It became one of the early tasks of organized labor to demonstrate the existence of that common interest.

The first evidence we find of the promotion of educational legislation by an organization representing labor is in Rhode Island in 1799-1800. Rhode Island had jealously resisted any degree of state interference with cherished parental rights and privileges in the matter of education. One result, in addition to the fact that she had fewer schools than her sister states, was an unduly large proportion of native-born illiterates.[39] In 1789 an organization known as the Mechanics' Association was formed which, through the influence of one of its members, John Howland, a barber, interested itself in the establishment of a system of public schools. A law was secured in 1800, but met with little support; it was enforced in only one town, Providence, and was repealed at the end of three years. The law, though forced through a reluctant legislature by an organization representing skilled labor, was not supported by the public; it did not make any specific provisions for factory children, nor does there seem to be evidence that it was generally demanded by the laboring classes.[40] For exactly a quarter of a century after the repeal of this act, Rhode Island remained

38. Excellent illustrations are to be found in the *History of the Public School Society of New York City,* Bourne; the *History of Education in Pennsylvania,* Wickersham; the *History of Public Education in Rhode Island,* Stockwell; in the school laws of nearly all the original states, and in a great variety of scattered sources.

39. Stockwell, *Hist. of Pub. Ed. in R. I.,* pp. 11, 38, 57, 89.

40. Towle, *op. cit.,* p. 13. See the text of the law, Stockwell, *op. cit.,* pp. 19-21.

without a system of public education. Children whose parents could not afford to pay tuition in private schools were taught, if at all, in schools maintained by benevolent organizations of various kinds, in Sunday schools, and later in schools maintained, at least in part, by lotteries.[41] In 1828, the foundation of the public school system was laid in a law permitting but not requiring towns to establish schools and to raise for their support a limited and quite inadequate sum by taxation.[42] The law of 1800 had made the establishment of schools compulsory, hence its unpopularity; the later measure, having more regard for the traditions of the state, required nothing, did not permit heavy taxation, and was allowed to stand.[43] It does not appear that organized labor brought any special influence to bear in the passage of this measure, but the fact that John Howland had kept up an active interest in education gives some grounds for the presumption that it was a factor. At least there was a somewhat general demand for legislation, as shown by memorials presented from various parts of the state.[44] A year or two later, labor unions became very active in Rhode Island, as elsewhere, and, influenced by reforms in England, began to demand better working conditions for their children, asking also for some educational advantages.[45] In 1838 a bill was introduced requiring that no child under twelve years of age be permitted to work in any factory unless he had attended school for three months during the preceding year. After successful blocking for two years by the manufacturing interests, the bill became a law in January, 1840, but as no adequate provision was made for its enforcement, it was disregarded by all concerned.[46]

To a considerable extent the free school system of Pennsylvania grew out of the early nineteenth century labor agitation. In this state the pauper school idea was strongly entrenched. William Penn, the proprietary founder of the original colony, intended that both literary and industrial education should be

41. Stockwell, *op. cit.*, pp. 30-37.
42. *Ibid.*, p. 43.
43. John Howland; quoted by Stockwell, *op. cit.*, p. 46.
44. Stockwell, *op. cit.*, p. 43.
45. Towle, *op. cit.*, pp. 16-18.
46. *Ibid.*, p. 19.

universal from the beginning,[47] but his ideals, though embodied in very definite compulsory education laws by the early Assemblies,[48] failed to lead to the establishment of schools. Racial and sectarian struggles rendered centralization in education impossible, and little remained at the end of the Colonial period but the single principle that the poor should be given an opportunity for free instruction. A free school system for children of the poor was made obligatory in the year 1802.[49] This pauper school law, modified by later legislation, was the foundation upon which a universal system of education was to be built. Twenty years after its enactment, a committee was appointed to inquire into the extent to which it had been put into operation.[50] The report of this committee indicates that prior to the labor agitation of the succeeding decade the educational ideals of the Commonwealth were expressed, so far as free schools were concerned, in terms of public charity. The committee found that the schools were poor and few; that attendance, due to the "culpable neglect or mistaken pride of parents," was poor; and that the measure was "wholly inoperative in many of the counties of the Commonwealth and much abused in others."[51] The committee recommended the extension of the Lancastrian system of instruction, commending it for its inexpensiveness, and urged upon the legislature the duty of providing instruction for the poor, saying in part:

"'Educate the poor' is one of the soundest maxims, one of the most important admonitions, which can reach, and dwell upon the mind of a republican law-giver."[52]

In 1824, evidence of another basis for public education begins to appear. In that year a bill providing for the education of children employed in the manufactories of the state was presented in the House, and though it did not pass and presumably received scanty consideration, it at least drew attention to a growing educational need.[53] An inadequate free

47. *Frame of Government*, XII; *Laws*, XXVIII.
48. *Laws of 1683*, ch. 112. See Proud, *Hist. of Penn.*, Vol. I, p. 345.
49. *Laws of 1802*, ch. 34.
50. *Pennsylvania Documents*, 1822, *Report of Committee on Education*, Senator Wurts, Chm.
51. *Ibid.*, pp. 23-24.
52. *Ibid.*, p. 24.

school law was enacted in this year,[54] but apparently it received little support, for it was repealed by the legislature at the session of 1826.[55] The following year a bill was presented which was intended to provide for an investigation into the extent and increase of manufacturies in the state and to exclude from them all children between twelve and eighteen years of age unless either receiving instruction or able to produce a certificate signed by "a respectable schoolmaster," or by "two reputable citizens" of the county, testifying to their ability to "read and write the English, German, or some other foreign language.[56] The bill of 1827 was actively opposed by the manufacturing interests on the grounds that it was unnecessary, undemocratic, and foreign to the spirit of the American government.[57] It was definitely supported by the Working Men's Party, the political expression of organized labor at this time, which was demanding better working conditions, shorter hours, and further:

"That an open school and competent teachers for every child in the state, from the lowest branch of an infant school to the lecture rooms of practical science, should be established, and those who superintend them to be chosen by the people."[58]

In the following decade various forces, philanthropic, industrial and political, were sufficiently united to secure legislation providing for free schools throughout the state. The struggle of forty years, continuing for an additional twenty years before compulsory attendance was won, belongs to a later section of this study.

In New York, as in Pennsylvania and Massachusetts, working men began to organize in the second and third decades of the century, and to demand better working conditions and shorter hours for their children. But apparently outside their

53. Barnard, *Factory Legislation in Penn.*, 1907, pp. 1, 2.

54. *Laws*, 1824, ch. 88. See also *Penn. Magazine of History and Biography*, Vol. XXXVII, p. 77.

55. *Laws*, 1826, ch. 13.

56. Barnard, *op. cit.*, p. 2. If this bill, passed by the House but defeated by the Senate, had become law, Pennsylvania would have led all the states of the Union, with the exception of Connecticut, in child labor legislation.

57. *Ibid.*, p. 4.

58. From questions asked candidates for election to State Legislature, 1829, in *Doc. Hist. Am. Indust. Soc.*, Vol. V, p. 93.

ranks the idea of equal educational opportunities for the children of the poor and the rich was not considered. Indeed, the early English idea of a charitable or philanthropic system of education for children of working men prevailed here longer than elsewhere in the north. Peculiarly offensive to the working man of to-day would be the language used in a memorial to the legislature in 1805, seeking public support for the New York School Society, an organization which, for nearly half a century, was to educate a large proportion of the poorer children of that city:

"The rich having ample means of educating their offspring," the memorial proceeds, "it must be apparent that the laboring poor—a class of citizens so evidently useful—have a superior claim to public support."[59]

As the influence of labor increased some attention was paid to the children employed in the factories. It was recognized that these children, working long hours throughout the week, were not deriving any benefit from the public funds which at this time were distributed to various public school societies and corporations. In 1828 it was proposed to set aside a proper portion of these funds for the encouragement of mill schools where young children might receive instruction "during such hours as they could be released from labor." The hope was expressed that "By such means, and by the aid of Sunday schools, the inmates of these establishments would acquire a competent education, and protect these manufactories from the character which has been ascribed to similar establishments elsewhere, of being nurseries of ignorance and vice."[60]

Agitation by working men's organizations continued, and there were faint-hearted attempts to secure legislative provision for the schooling of factory children. Nothing of a tangible nature was accomplished, however, until relatively late in the century.

In the national period thus far studied there appears, first, the rise of the manufacturing industries and the new demand for the labor of young children, particularly in the textile

59. Memorial to legislature, Feb. 25, 1805; in Bourne, *Hist. of Pub. Sch. Soc.*, p. 3.

60. *Rpt. of State Supt. of Com. Schs. to Legislature*, Jan. 29, 1828, p. 13.

mills. At first the children employed were from the poorer classes and the English-Colonial system of apprenticeship was frequently employed. Later, entire families moved to the mill towns, and the children joined their parents as bread-winners. Meanwhile education lagged and relatively large numbers of children were found to be growing up in ignorance. There was grave danger of an ignorant, debased factory class when once the neglected children of the mills came into maturity.

Secondly, two new forces were developing which, joining themselves to a broad-minded faith in education representing the highest development of New England ideals, were to lead to state systems of free public schools; a growing democracy was expressing itself in a rapid extension of the suffrage; working men, newly enfranchised and learning to use their power, were demanding a measure of leisure for themselves and better educational opportunities for their children. These forces, guided and supported by men like James G. Carter, Horace Mann, Henry Barnard, Horace Greeley, and a host of others, were able to put under way a shadowy kind of compulsory schooling for those young children whom necessity drove to the factories. This was, in effect, class education. Thus far the aim of democracy had not been realized. But a great advance had been made over the charity and philanthropic schools. The school and labor laws enacted in Connecticut, Massachusetts and Rhode Island, weak, unenforceable, purposely shorn of features which might embarrass the employer, were forerunners of genuine compulsory education, adapted to the needs of all. It was to require long and persistent effort to dignify public education, render it adaptable to varying interests, subordinate to it temporary economic gain, and bring men to realize that the modern democratic state not only can, but must require an educated citizenship. Time was necessary for the development of the modern philosophy of education which demands for every child opportunity to realize under proper social guidance such capacities as he may potentially possess. The advance to present-day standards may now be traced in a representative group of states.

CHAPTER IV

MASSACHUSETTS

A new period in the educational history of Massachusetts opened in 1837 with the enactment of the law creating a State Board of Education,[1] and the action of that body in calling Horace Mann to its secretaryship.

One of the first duties set himself by the Secretary of the Board was to ascertain to what extent the school laws of the state were operative. He found that many of the specific educational duties which the state had laid upon local communities were persistently ignored by the officials charged with their execution.[2] One of these neglected requirements was that relating to school attendance. The law made it the duty of school committees, ministers, and selectmen to secure so far as possible the regular attendance of the youth upon the schools in their respective towns. The secretary found that these officials gave little attention to their duties, and that "the returns exhibit frightful evidence of the number of children who either do not go to school at all or go so little as not to be reckoned among the scholars.[3]

It must be remembered that the children Horace Mann found in the public schools, or, in so many instances, avoiding attendance upon them, were of very different stock from those for whom the laws were originally intended. Immigration had already changed the character of the population not a little,[4] and with the incoming hosts of foreign speaking people, says John Cummings, "the number of destitute, ignorant, and criminal . . . increased until they began to press heavily upon

1. *Mass. Acts and Resolves,* 1837, ch. 241.

2. *Mass. Sch. Rpt.,* 1838, pp. 31-36.

3. *Ibid.,* p. 38.

4. In 1848, more than half the children in Boston primary schools were of foreign parentage. *Lectures and Annual Reports on Education, by Horace Mann,* p. 749.

the ways and means of public charity."[5] The children of these people had little time for schooling, but were absorbed by the factories as soon as they were able to discharge the simple duties of spinner's helper. The common schools had failed to meet the changed social conditions and, though conceded by the educator, James G. Carter, to have improved during the national period, "they have," he said, "most certainly not kept up with the progress of society in other respects, . . . and there never was a time, since the settlement of our country, when the common schools were farther in the rear of the improvements of the age . . . than they are at the present moment."[6]

Even in Massachusetts, recognized leader in free education, the charity school long remained a conspicuous part of the educational system. Up to 1818 the capital of the state maintained no public primary school. Since no child could be admitted to the free city schools until able to read and write, and since there was a natural reluctance on the part of the poor to be identified with the pauper or charitable schools maintained by philanthropic groups or individuals, many children entered upon their work in shop or factory without having enjoyed any educational privileges whatever."[7]

Not until late in his secretaryship did Mann express a definite interest in factory children. Even then he did not seriously attempt to solve the peculiar problems relating education and labor. Perhaps the other tasks to which he set himself and in which he so well served the broad cause of education, obscured the needs of the relatively small group of wage-earning children.

"There are no exact data," he wrote, "by which to determine the number of children employed in the State. Compared with the whole number of children in it between the ages of four and sixteen, I suppose it to be inconsiderable; so inconsiderable, indeed, that if their services . . . were to be henceforth wholly discontinued, it would subtract hardly an appreciable fraction from the aggregate products of our labor and machinery."[8]

5. *Poor-Laws of Mass. and N. Y., Pub. Am. Econ. Assn.,* Vol. X, p. 34.

6. From *Old South Leaflet,* No. 135, 1824.

7. *Boston Town Records, 37th An. Rpt.,* pp. 100, 105, 168; also *Memorial Hist. of Boston,* Vol. IV, p. 245.

8. *Mass. Sch. Rpt.,* 1847, p. 116.

Mann held that all young children might well be withdrawn from industry and required to attend school for ten months each year. Though questioning the right of the state to interfere between parent and child, he did not hesitate to suggest restrictions upon employers, saying, "They use the services of children not their own, . . . and cannot intrench themselves behind the sacredness of parental rights."[9]

The Secretary commended the factory act of 1836 which required children employed in factories to attend school twelve weeks each year, since, despite the lack of provisions for enforcement, it had brought many children into school.[10] In his first report he complimented the factory owners and agents for their support of the measure, at the same time condemned parents who attempted to evade its requirements, and "who hold their children to be articles of property and value them by no higher standards than the money they can earn."[11] A marked difference was found between the larger manufacturers and the smaller in their attitude toward the law and the welfare of their child-employees. Among the latter the law was more likely to be evaded, in some places "uniformly and systematically disregarded."[12] The larger producers, on the contrary, not only obeyed the law, as a rule, but supported schools, in whole or in part, for the benefit of the children employed.[13] Horace Mann never became an enthusiastic advocate of compulsory school attendance laws. He wanted all children to be in school, and carried their interests on his heart constantly, yet he was reluctant to sacrifice what he held, with many other students of political science of his period, to be a principle of American democracy, the right of the parent to determine what his child should do. The evil of non-attendance, to which Mann constantly referred in his reports, he preferred to fight by other means than compulsion, though after a personal survey of European systems, particularly of the Prussian system which he greatly admired, he became re-

9. *Ibid.*, p. 118.
10. *Mass. Sch. Rpt.*, 1838, p. 67.
11. *Ibid.*
12. *Ibid.*, 1839, p. 42.
13. *Ibid.*

signed to the idea of state interference as the final solution of irregularity and non-attendance in this country.[14]

There is small probability that a general law requiring the attendance at school of children of all classes could have been enforced during the period of Horace Mann's public service in Massachusetts. Interest in education was not sufficient at that time to secure accommodations for the children who, unstimulated by law, sought admission to the schools. Secretary Mann describes a school, typical of the less progressive parts of the state, in a village where two hundred children between the ages of seven and sixteen were receiving instruction in a single school room with a seating capacity of forty. The pupils were divided into five groups, each group being permitted to attend school for a period of ten weeks each. In his report Mr. Mann characterizes this school as so bad that "in two or three important particulars there was little possibility of its becoming worse."[15] Compulsory attendance legislation under such conditions would, of course, have been meaningless.

In 1842, significant changes were made in the labor-attendance law.[16] Heretofore there had been no responsibility for enforcement; now this duty was laid upon the local school committees of the state, who were authorized to prosecute for all violations, the penalty recovered to go to the person prosecuting. Of greater importance, however, was a provision restricting the labor in factories of all children under twelve years of age to ten hours in one day, thus marking the first victory of organized labor in its long fight for a shorter working day.[17] The interests of manufacturers were carefully guarded by providing that in case of supposed violation the prosecution must prove that the employer had "knowingly" employed a child under twelve years of age for more than ten hours in one day.[18]

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14. *Mass. Sch. Rpt.*, 1847, pp. 107-135.

15. *Mass. Sch. Rpt.*, 1839, p. 38.

16. *Mass. Acts and Resolves*, 1842-43, ch. 60.

17. In this year Connecticut limited to ten hours the working day of all factory children under fourteen.

18. This seems to be the first use of the word "knowingly" in this connection. Its use in child labor laws continued for half a century to be a favorite device for "pulling the teeth" from measures which otherwise might have proven embarrassing to employers.

The general question of school attendance was scarcely touched by the laws thus far enacted, the children affected by them representing but a small proportion of the entire number. Statistics bearing on this subject, not only here but in other states, are of little value. It is clear, however, that the schools were poorly patronized, and that the attendance of many pupils enrolled was extremely irregular. Mann estimated in 1841 that about sixty per cent of the children between four and sixteen years of age attended some school, public or private, for a part of the year.[19] He deplored the indifference of parents, a "most fearful and wide-spread epidemic," and suggested a remedy which, throughout his secretaryship, he continued to advocate; namely, that all children be required by law either to attend school regularly or suffer complete exclusion.

"There would be no hardship," he said, "or ground of complaint in the adoption and enforcement of a code of rules for all our schools, which would bring all parents to an option, either to send their children to school regularly, or to keep them away regularly,—extraordinary cases, of course, being excepted."[20]

Again, recommending this method several years later, Mr. Mann remarked: "The measure has proved highly remedial wherever adopted."[21] This summary method of dealing with the irregular pupil did not commend itself to the legislature; instead, a law was enacted in 1850 with the object of controlling truancy. Since 1642 Massachusetts had made provision for the public control of idle and unruly children and those for whom parents neglected to provide suitable employment. Not much use was made of these statutes and the evils of truancy, especially in the larger cities, had become very evident. Boston, in 1845, under the leadership of its vigorous mayor, Josiah Quincy, entered upon a spirited campaign against it.[22] An investigation made in that city attracted statewide attention, the newspapers entered into the discussion, and

19. *Mass. Sch. Rpt.*, 1841-42, pp. 21-22.
20. *Ibid.*, p. 23.
21. *Ibid.*, 1845, p. 29. Henry Barnard in Rhode Island had made a similar recommendation.
22. Perrin, *op. cit.*, p. 46 ff.

in 1849 a bill dealing with the subject was presented to the legislature. On the grounds that parental rights were threatened, this bill was defeated,[23] but the following year, backed by the teachers of the state and also by an aroused public, favorable action was secured,[24] each town and city being authorized to make "all needful provisions and arrangements concerning habitual truants, and children not attending school, without any regular and lawful occupancy, growing up in ignorance, between the ages of six and fifteen years."[25] Large power as to details was given to the individual towns, which were to provide for suitable penalties, to make necessary by-laws, and to secure the appointment of three or more persons who alone were vested with power to make complaints of violation and carry out the judgments of the court.[26] In lieu of a fine, in no case to exceed twenty dollars, the justice might order a child to be placed in a reformatory or "other suitable situation." In 1852, confinement in the county jail was indicated in an amendment as a proper disposition of a truant child.[27] One year was made the maximum period of confinement in either reformatory or jail.

The entire spirit of this law seems to be that of punishment rather than reformation. Records show that it was but sparingly enforced, reflecting credit upon the towns and their justices, with whom a fine or a sentence of a few months in jail or reformatory as a punishment for a wayward or neglected child evidently found little favor.

Up to this time there had been little change in the spirit of the compulsory laws since the seventeenth century. Indeed, one is not sure that there had been great advance since the old English statute of Henry IV, requiring all children over twelve years old to be at work or in school.[28] But in 1852 a distinct legislative advance was made in the enactment of the first general compulsory attendance law in America.[29] In 1844

23. *Ibid.*, p. 50.
24. *Acts and Resolves*, 1850, ch. 294.
25. From text of law.
26. The first truant officers.
27. *Acts and Resolves*, 1852, ch. 283.
28. 7 *Henry IV*, *c* 17; *supra*, p. 10, Ch. I.
29. *Mass. Acts and Resolves*, 1852, ch. 240.

it had been proposed to amend the labor-attendance requirements to include all children under sixteen employed in factories, to extend the term of compulsory schooling to three months, and to provide for a more reliable certificate of attendance.[30] This measure did not receive a favorable hearing. In 1849 the law of 1836 as amended, was officially interpreted to mean that the written statement of the parent that the child had reached the age of fifteen at the time of employment was sufficient proof of age, unless it could be shown that the employer was aware that such statement was false.[31] There were other attempts to advance the interests of children about this time,[32] but the compulsory attendance act of 1852 overshadows everything else of this character. Its provisions were:

1. Every child between eight and fourteen was to attend some public school for at least twelve weeks each year, six weeks to be consecutive.
2. To this there were several exceptions, as: attendance for a like period upon some other school or upon other means of instruction; evidence that the common school branches had already been mastered; a state of mind or body that would prevent attendance; or poverty of the parent or guardian.
3. The penalty for infraction was a fine of not to exceed twenty dollars.
4. Violators were to be prosecuted by the city treasurer.

It was made the duty of the local school committee to inquire into all cases of violation, ascertain the reasons, if any, and report annually to the town. They had no authority to enforce the law, and as the treasurer would naturally have no direct interest in such duties, very little might be expected from the measure. Indeed, there is no evidence that it increased attendance appreciably. Perrin says of it: "From the day of its enactment until 1873 the history of the law is little more than a record of failures."[33] Yet the attempts to put the law into operation in various parts of the state, particularly in the decade following the Civil War, kept the subject of school attendance before the people and served as a means of

30. *Leg. Doc.*, 1844, Senate, No. 41; Otey, *op. cit.*, p. 82.
31. *Leg. Doc.*, 1849, House, No. 95.
32. *Leg. Doc.*, 1851, House, No. 179.
33. Perrin, *op. cit.*, p. 57.

educating public opinion. Besides, the fact that Massachusetts, the recognized leader in education in the sisterhood of states, had enacted a law requiring the attendance of all her children upon the means of education exerted a powerful influence upon legislation in the younger states where, fortunately, the actual operation of the law was not critically examined, the principle only receiving attention.[34]

The forces back of the law of 1852 appear to have been political, including the influence of organized labor, and philanthropic, rather than educational. Horace Mann had convinced the press and doubtless the political and social leaders of the evils of non-attendance, but he had not asked that all children be forced into school by law. It does not appear that anything so radical was contemplated by the State Board of Education nor the local school committees,[35] while there is reason to believe that teachers regarded the influx of unwilling children with distinct disfavor.[36] Mann's successor in office[37] certainly did not encourage compulsory attendance measures; indeed, he implies, in his first report, that the situation was not alarming.[38] The following year, to be sure, he was in the way of conversion to Mann's view, saying:

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34. Illustrated in the compulsory laws of Michigan, 1871; Kansas, 1874; Ohio, 1877; and Wisconsin, 1879; all enacting laws very similar to that of Massachusetts.

35. *Mass. Sch. Rpt.*, 1863, p. 79.

36. *Ibid.*, 1870, abstracts, p. 58.

37. Barnas Sears.

38. *Mass. Sch. Rpt.*, 1849, p. 33. Secretary Sears had some foundation for his belief that the conditions prevailing in factories had been misrepresented. The first official investigation of working conditions in Massachusetts factories was made in 1845. *(Mass. House Document No. 50,* March, 1845; in *Doc. Hist. of Am. Indust. Soc.*, Vol. VIII, p. 133 ff.) The special committee to which was referred sundry petitions from labor groups praying that a shorter day and better working conditions be guaranteed by law, conducted hearings, took testimony, and visited factories. The report was so favorable to the factories as to raise the question of bias. It indicates that there were children in the mills, but that they were required to spend some three months of each year in school if younger than fifteen. At Lowell, for example, few less than fifteen years of age were found, nine-tenths of the employees, the committee reported, being farmers' daughters, of whom they said: "Their education has been attended to in the district schools, which are dotted like diamonds over every square mile of New England. Their moral and religious characters have been formed by pious parents, under the parental roof. Their bodies have been developed, and their constitutions made strong by pure air, wholesome food, and youthful exercise." *Ibid.*, p. 143.

"The non-attendance of a part of those children for whose benefit the Public Schools are especially intended . . . is assuming a fearful importance; and it will not be safe long to delay such measures as may be necessary to avert the impending danger."[39]

Yet neither here nor elsewhere in his published reports and recommendations does Secretary Sears ask directly for a law.[40] It would seem that educational influences, either individual or corporate, were of minor importance in shaping legislative programs in this formative period. That an influential political element proposed to go even further than to require school attendance is evidenced in a message of Governor Henry J. Gardner to the legislature, in which he suggested an amendment to the constitution denying the suffrage to all unable to read and write.[41]

Both industry and education were greatly disturbed by the Civil War, and no important legislation affecting either school attendance or the labor of children was under serious consideration until its close. It is not to be supposed that education was neglected during the period of the war; quite the contrary. Though there was a falling off at first, in the state appropriation for schools, it was followed by a steady gain until, in the year 1864-65, the total sum appropriated was more than double that of any year preceding the great struggle.[42] But the towns and cities felt the war keenly. They were called upon to sacrifice both life and treasure, and the schools, of course, suffered. In many cases parents were obliged to keep their children at home to assist in the work. In other cases young children were employed in factories in open violation of the law, while in some parts of the state mills had been obliged to reduce their working forces and the children, thrown out of employment, unwilling to enter school, often unwanted

39. *Mass. Sch. Rpt.*, 1850, p. 29.

40. That the Board of Education approved the compulsory measure of 1852 might be inferred from the following statement in its report of 1853 regarding the general efficiency of the educational machinery: "The system itself needs at present no modifications. It attracts the admiration of surrounding states and nations, and needs only to be vigorously managed to secure incalculable advantages." *Ibid.*, 1853, p. 6.

41. *Sen. Doc., 1855*, No. 3, p. 17.

42. *Sen. Doc., 1856*, No. 3, p. 19.

because difficult to grade and classify, were added to the chronic idlers.[43] The truancy law of 1850, slightly modified in 1852 and 1859, had given towns power to make and enforce the necessary by-laws for the control of delinquent children. Towns had quite generally failed to exercise their authority, and even now, when truancy and idleness had become more frequent than ever before, they would not take the necessary steps to deal with it. The need was recognized clearly enough, and the law, though awkward in its method of administration, might have been made operative, but the typical citizen of Massachusetts did not wish to have his own conduct too closely limited by law, nor did he wish to regulate that of his neighbor. His attitude is probably fairly expressed in the report of the secretary of a town school committee, who, after noting the extent to which the laws were violated in his community, added:

"Would that adequate means might be devised, without the resort to legal proceedings, for the complete prevention of a practice which, if continued till it becomes a habit, so often leads to the commission of crime."[44]

In 1862 the truancy law was amended, making it mandatory upon the towns and cities to care for their delinquent children.[45] Still there were no means to coerce a community, and at the end of three years only seventy-seven of the three hundred and thirty-five towns had fully met the requirements.[46] Massachusetts lost years of valuable time in the vain hope that without invoking the aid of a law with power behind it, she might nurse her delinquent children and still more delinquent parents into voluntary conformity with her lofty ideals of education.

Conditions became so serious that on the recommendation of the Secretary of the Board of Education a legislative investigation was made in 1863, by the joint committee on education. It was found that about one-fourth of all the towns in the state were violating the law requiring that an elementary

43. *Mass. Sch. Rpt.*, 1862, p. 51.
44. *Mass. Sch. Rpt.*, 1863, p. 79.
45. *Mass. Acts and Resolves*, 1862, ch. 207.
46. Perrin, *op. cit.*, p. 54.

school be maintained for at least six months each year,[47] and that only one-half the towns legally required to support high schools were obeying the law.[48] To meet this situation, the legislature provided that no town failing to meet the state regulations be allowed to share in the state funds.[49] At the same time it was provided that towns participating in state funds be required to raise by local tax a minimum of three dollars per child instead of one and a half dollars, as before.[50]

With the restoration of industry following the war many children were drawn into the factories. There was much poverty everywhere, and children who should have been in school responded to the call for cheap labor. There is abundant evidence that children were now working in the mills under less favorable conditions than formerly, and in larger numbers.[51] Another investigation was now undertaken by a joint legislative commission which had been directed "to collect information and statistics in regard to the hours of labor, the condition and prospects of the industrial classes." This commission first sought information by questionaries, then public hearings were held in various parts of the state, usually at night, in order to accommodate the working men. The commission evidently conducted its work in a thorough and painstaking way, and as a result was able to lay before the legislature an accurate description of the industrial situation of the time.[52] It found the child labor laws to be quite generally ignored. Children no more than seven years of age were found at work in the mills. In one town, 652 between eight and fourteen, most of them entirely illiterate, were at work. The ten-hour law was ignored, the working day being lengthened in many cases to eleven hours. The commission saw no hope for relief in the existing laws which local authorities

47. *Mass. Sch. Rpt.*, 1862-63, p. 44.

48. *Ibid.*, pp. 52, 53. The violation of the high school law had particularly distressed the Secretary. He wrote feelingly of the measure, "most venerable for age, inherited from the time of Endicott and Dudley, most wise and humane in its intent, and most beneficial in influence wherever obeyed." *Ibid*, p. 53.

49. *Mass. Laws*, 1865, ch. 142.

50. *Mass. Sch. Rpt.*, 1863-64, p. 101.

51. *Ibid.*, 1864-65, p. 65.

52. *Leg. Doc., House*, 1866, No. 98.

would not enforce, saying: "We are rushing into the same fearful condition in which England found her manufacturing districts years ago."

To meet this situation, the commission recommended a system of half-time schools, every child employed in a factory to spend half of the day in school and half in the factory or mill.[53] It was recommended that the period of compulsory attendance be made six months instead of three. The commission recognized that the working day was too long, yet it went on record against an eight-hour day, suggesting as a possible solution a mutual agreement upon a ten-hour day.[54] One of the most important recommendations was that the child labor law be enforced by a state officer.

The legislature of 1866 went beyond the recommendations of the commission in certain respects, the law of that year requiring:[55]

1. That no child under ten years of age be employed in any manufacturing establishment.
2. That all employees between ten and fourteen attend some school approved by the local school committee for not less than six months each year.
3. That none under fourteen be employed for more than eight hours in one day.
4. That anyone knowingly employing a child not meeting the age and schooling conditions be subject to a penalty of fifty dollars, parents now being equally responsible with employers.
5. That the governor be authorized to instruct the state constable to enforce all laws regulating the employment of children.

This measure, still weak in several vital respects, was decidedly in advance of any legislation heretofore enacted in this country,[56] but it had outrun public opinion, at least so far as controlled by commercial interests. The next year the law was revised, bringing it more nearly in line with the original

53. A system at one time highly esteemed in England, but later regarded as a mischievous expedient.

54. The legal day was already ten hours for children under twelve.

55. *Mass. Laws*, 1866, ch. 273.

56. Perrin, *op. cit.*, p. 43.

recommendations of the commission of 1865. The new law[57] reduced the term of compulsory school attendance to three months, but raised the upper limit to the age of fifteen, and provided for half-time schools. It included mechanical as well as manufacturing establishments in the restrictions of the law, abandoned the eight-hour day, substituting a maximum of sixty hours a week, and provided that the state constable should detail one of his deputies to enforce all laws relating to the employment of children.

In the abstract, the law of 1867 was distinctly a step backward. Possibly it was as strong a measure as the time warranted. At any rate it was approved by the Secretary of the Board of Education who endorsed the reduction of required school attendance from six months to three, on the grounds that it was thus "made to conform to the terms of a large majority of our Public Schools, and will not only secure a more profitable employment of the time devoted to study, but also give better opportunities for labor and thus tend to the formation of habits of industry."[58]

Mr. Henry K. Oliver, an experienced factory manager, was made deputy state constable in charge of enforcement.[59] General Oliver faced certain grave difficulties as he undertook the work of enforcing laws which, in somewhat less definite form, had been neglected or ignored for a generation. In some places he found school accommodations so limited that not all the children of the compulsory age could be cared for except on the installment plan. He found mill owners indifferent or hostile; parents resentful at the prospect of interference with their affairs, frequently so poor that if deprived of the earnings of their children they would be unable to support their families.[60] Mr. Oliver at once sought to inform himself as to the exact conditions prevailing in the manufacturing centers. His first report reveals a disheartening state of affairs. At Fall River he estimated there were a thousand young children in the factories, "very ignorant, some not knowing their own

57. *Mass. Laws*, 1867, ch. 285.

58. *Mass. Sch. Rpt.*, 1868, p. 48.

59. Mr. Oliver was a highly educated man, a former teacher, publicist and lecturer, and had served as Adjutant-General of the state.

60. *Mass. Sch. Rpt.*, 1869, pp. 292, 300.

ages." He describes a place where twenty-five children of both sexes were found "employed in a basement room in which the air was hardly fit to breathe, and the floor, of stone, always wet and cold." The children were barefooted, ill-clad, unclean, and pale looking, earned very low wages, and had not had the proper school privileges.[61] He sets out at some length the attitude of some of the employers, quoting one as saying:

"I regard my work-people just as I regard my machinery. So long as they can do my work for what I choose to pay them, I keep them, getting all out of them I can. What they do, or how they fare, outside of my walls, I don't know, nor do I consider it my business to know. When my machines get old and useless, I reject them and get new, and these people are part of my machinery."[62]

Another expressed a common sentiment when he said he thought "the State was meddling with what it had no right to interfere with, and was making unjustifiable investigations into the private business of corporations."[63] In his second and last report,[64] General Oliver admits inability to enforce the law which he had found to be one of "words and threats and penalties," a "form of verbal prohibitions," not intended to function. The insertion of the word "*knowingly,*" he says, offers a "loop-hole of retreat ample enough for any transgressor." The cases prosecuted had resulted in failure to secure conviction or in successfully continued appeals. Even in one case where the employer had pleaded guilty and had been fined, an appeal was taken and the entire matter held up. He found school committees and superintendents who might have aided him, lacking in courage and disposition to coöperate. He enumerates the most serious defects to be:

1. No power to secure evidence of violation.
2. No power to enter and inspect places of employment.
3. No specific provision for court jurisdiction nor for manner of prosecution.
4. No form of age and schooling certificate to be kept on file by the employer.[65]

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61. Oliver's first report, *Sen. Doc.* No. 21, 1868, p. 22.
62. *Ibid.*, p. 23.
63. *Ibid.*, p. 24.
64. *Sen. File,* 1869, No. 44.
65. *Ibid.*, p. 17.

In both reports Mr. Oliver wrote with much feeling, showing himself a philanthropist, thoroughly interested in the children and distressed by the situation in which he found them. But as yet few reliable statistics had been obtained. He undertook to study the conditions by means of questionaries, but received replies from only about one-third of the establishments addressed. The data from these were of little value, but from them one may conclude that the laws were pretty generally violated, that the courts were not in full sympathy with enforcement, and that conditions under which children were at work had been growing worse as the number employed increased.

General Oliver resigned at the end of his second year to become chief of the Bureau of Statistics and Labor which had been created by legislative action on June 23, 1869.[66] While he accomplished little or nothing in a direct way as enforcing officers, his reports, filled with classical references and illuminated with selections from Shakespeare and other poets, lacking in specific facts though they are, constitute a valuable contribution to the literature of child labor. His field work marks the beginning of inspection, though it required twenty years to create, in the more indifferent communities, a proper respect for the law.

It now began to be more generally realized that the interests of working children were bound up closely with those of adult labor. Mr. Oliver had found that the provision that children should work no more than sixty hours a week was violated largely because manufacturers found it difficult to adjust such a schedule to the longer one of adults. He advocated a universal ten-hour day as the proper solution of the difficulty. A group of noted men had now allied themselves with the labor movement. Wendell Phillips had become active in the agitation for shorter hours and better working conditions and had lent his sympathetic aid to the legislative campaign in 1866 and 1867.[67] Garrison, Gerrit, Stone, and others were joining in a renewed effort for shorter hours. Bills for a ten-hour day,

66. *Acts and Resolves*, 1869, ch. 102. This was the first organization of the kind in the United States.

67. Persons, *Labor Laws and Their Enforcement*, p. 102.

strongly backed by the united forces, were introduced and passed the House in 1871, 1872 and 1873, only to be defeated in the Senate, where the manufacturers were well entrenched. In 1874 additional light was thrown on the labor situation in a further report;[68] the Governor, now actively interested, joined in recommending action, and in 1874 the nearest approach to a ten-hour law that could be forced through the legislature was enacted.[69] It was made illegal to employ a minor under eighteen or a woman over that age in any manufacturing establishment for more than ten hours a day, except that a different apportionment of time might be made, in which case the time of employment might not exceed sixty hours in one week. Again the manufacturers were protected and the efficiency of the law largely destroyed by the provision that the penalty, fifty dollars, apply in case of *willful* employment in violation of the requirements.[70]

Meantime, without much regard to the requirements of the child labor laws, the attendance laws were being modified. In 1868 the law permitting evening schools and fixing the minimum age of admission at fifteen was so amended as to admit children at twelve; thus three years of the compulsory schooling might be obtained while the child was working full time in a factory.[71] In 1873 the general compulsory attendance law was rewritten.[72] The required period of annual attendance was increased from twelve weeks to twenty, but the upper age limit was reduced from fourteen to twelve, thus increasing the total period of compulsory attendance but eight weeks.[73] All the former exceptions were retained,[74] and to them was added attendance at a half-time school. Enforcement was now taken from the city and town treasurers and confided to truant officers acting under local school committees. This provision, together with a definite determination of the jurisdiction of

68. *Sen. Doc.*, 1874, No. 33.

69. *Mass. Acts and Resolves*, 1874, ch. 221.

70. In the revision of 1876 the words *willfully* and *knowingly* were dropped from the law. See *Mass. Acts and Resolves*, 1876, ch. 52.

71. *Mass. Acts and Resolves*, 1869, ch. 305.

72. *Ibid.*, 1873, ch. 279.

73. Advanced to age of fourteen in 1874.

74. *Supra*, p. 52.

the courts, made it possible to prosecute with some hope of success.

At the same legislative session the truant law, originally enacted in 1850, was revised,[75] making it obligatory upon towns and cities to provide suitable places for the "confinement, discipline, and instruction" of truant children between seven and fifteen years of age. It required county commissioners, on request of three or more cities, to establish and maintain truant schools at convenient places other than the jail or house of correction. The law also required school committees to appoint truant officers, no longer awaiting town action in the matter, such officers to have sole authority to make complaints and to carry out the judgments of the court. Truancy was no longer to be punished by fine, but the delinquent child was to be committed to an institution "or some other suitable situation," for a period not to exceed two years. Both the compulsory attendance and truancy acts were revised in 1874, the upper age limit for attendance being restored to fourteen and truant officers being given slightly more power.[76]

The laws enacted between 1866 and 1874 mark a notable advance in public sentiment, yet measured by modern standards they were exceedingly defective. All standards were low; responsibility for enforcement, except in a few instances, was not fixed; the half-time school was encouraged; no adequate age and schooling certificate was provided; inspection was lacking; there was lack of harmony in the requirements of the labor and the attendance laws. But no law at all adequate by later standards could have gained a hearing at that time. Every advance was made against odds. The common school authorities who might have been expected to fight for the interests of the children of the common people were neutral if not hostile. They did not want the poorly trained, uncultured child of the factory and workshop in their well-ordered schools. They admitted they could do little for him. The attitude of the local school committees and teachers is here expressed by a representative superintendent:

75. *Mass. Acts and Resolves*, 1873, ch. 262.
76. *Mass. Acts and Resolves*, 1874, ch. 233.

"Without any habits of study, unused to school order and discipline, coming by compulsion and not by choice, with no prospects of remaining longer than the law requires, and joining classes for which they had no real fitness, disqualified them for membership. The admission of such persons into our graded schools has embarrassed them."[77]

Another school superintendent recognized the pressing need of the mill children, but opposed the enforcement of laws which would bring them into the day-school, recommending instead the opening of evening schools, which he believed would be "hailed with joy by their parents, as a favorable opportunity for them to acquire the rudiments of an education without intermitting the labors on which the families to which they belong practically depend for subsistence."[78]

The Secretary of the State Board himself found in the poverty and need of the people an almost insuperable obstacle to the education of their children, saying:

"Experience has shown that there is found, in the larger towns and cities especially, a considerable number of children extremely poor, whose daily earnings are absolutely necessary to keep the family from starvation or the almshouse."[79]

Carrol D. Wright, made Chief of the Bureau of Labor Statistics in 1874, differed sharply from the educational authorities regarding the treatment to be given children of the working people, saying:

"Personally, we believe in the extremest legislation in this direction, and could we have the power given us, we would not allow a girl under sixteen to be employed in any kind of a factory or workshop. If she could be free till she reached the age of twenty, mankind would be the gainer."[80]

General Oliver, as Chief of the Bureau of Labor Statistics, had failed to gain the confidence of organized labor or of the politicians.[81] He had found children in large numbers, unschooled and working under unsanitary conditions, subjected to the indignities of brutal overseers. But he had failed to

77. *Rpt. Mass. Bd. of Ed.*, 1870, Abstracts, p. 58.
78. *Ibid.*, pp. 44-45.
79. *Ibid.*, p. 10.
80. *Rpt. Bu. Stat. of Lab.*, 1874, p. 6.
81. *Sen. Doc.*, 1873, No. 1, p. 15.

make anything approaching an accurate survey of the field, and his recommendations, based on generalities, had not been accepted.[82] He had given up the child labor and attendance law as incapable of enforcement, saying:

"We permit by sheer and unpardonable neglect an educational compulsory law to go wholly unenforced, and we elevate to the position of law-makers some who are law-breakers of the very statute, now become a statute of words only, with its provisions neglected and its penalties disregarded."[83]

Mr. Wright brought to the office not greater learning, but efficient training for statistical and administrative work. In a hasty preliminary study of the field he found that at least 25,000 children between the ages of five and fifteen were not receiving the slightest training in schools, either public or private.[84] He was able to convince Governor Washburn of the seriousness of the situation and he in turn urged legislative relief.[85] A result was the laws of 1874, already noted, and the beginning of a new era in law enforcement.

Apparently those employing children made a determined stand against further changes in the labor laws,[86] yet advancement, both in legislation and in methods of enforcement was now relatively rapid. In 1876 mercantile establishments were included with the manufacturing and mechanical industries; children under fourteen were required to attend school annually for a period of twenty, instead of twelve weeks before being admitted to them; the words *knowingly* and *willfully* were omitted from the statute, thus relieving the prosecution of the necessity of proving the intent of the accused employer; and truant officers were authorized to visit, at least once each term, establishments where children were employed, and to report infractions of the law to the school committee.[87]

Meantime, the state was assuming larger responsibilities in the supervision and control of the criminal code. From 1867 to 1871 a deputy state constable had been detailed to assist

82. *Rpt. Bu. Stat. of Lab.*, 1872, p. 467.
83. *Rpt. Bu. of Lab. Stat.*, 1873, p. 387.
84. *Rpt. Bu. Stat. of Lab.*, 1874, p. 6.
85. Message, in *Mass. Acts and Resolves*, 1874, p. 509.
86. *Mass. Sch. Rpt.*, 1874, p. 141.
87. *Acts and Resolves*, 1876, ch. 52.

in enforcing the child labor laws. In 1871 a State Police Commission was created,[88] and each member of the state constabulary was directed to give due attention to these measures.[89] Later, the enforcement of the employment and schooling provisions was again entrusted to a special deputy, Mr. George E. McNeill, who was able to attract particular attention to the educational needs of working children.[90] In 1877 it was provided that members of the state detective department should act as inspectors of factories and prosecute for violations of measures relating to the employment of women and children. The next year it was made the duty of the Governor to appoint two regular factory inspectors from the police department.[91] This small force was not able to cover the entire state with any degree of thoroughness, yet their work was done so effectively that certain town and city officials, accustomed to permit young children, working in violation of the law, to support their needy families, begged that requirements be relaxed.[92]

There was a distinct advance in child labor requirements in 1878. Supported by a state bureau more adequately organized to secure and publish statistics showing the true status of child workers, by laws beginning to inspire respect because of more definite and more positive provisions, and by a method of enforcement capable for the first time of compelling obedience, the law was now becoming something more than the registration of a philanthropic wish for better opportunities for factory children. The legislation of this year provided:[93]

1. That manufacturing, mechanical, and mercantile establishments should keep on file age certificates of all employees under sixteen, including schooling certificates for all under fourteen; such certificates to be issued under the direction of local school committees.

2. Truant officers were given authority to require the production of all certificates.

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88. *Ibid.*, 1871, ch. 394.

89. *Sen. Doc.*, 1875, No. 50, p. 3.

90. He estimated that in 1874 there were 60,000 children in the state between the ages of five and fifteen who were not yet reached by the school law. *Sen. Doc.*, 1875, No. 50, p. 11.

91. *Acts and Resolves*, 1879, ch. 305.

92. *Rpt. Chief of Detective Force*, 1878, p. 29.

93. *Acts and Resolves*, 1878, ch. 257.

3. Failure on the part of the employer to require such a certificate was to be held a violation of the law.
4. After May 1, 1880, no child under fourteen, not able to read and write, could be employed in the restricted occupations during the session of the public schools.
5. During the vacations of the public schools children between ten and fourteen might be employed, even though they had not met the schooling requirements.
6. As provided in 1866, parents were held equally liable with employers, for the violation of the schooling requirements.

The outstanding feature of this law is the age and schooling requirement, weak and inadequate, to be sure, yet capable of development. The further advances during the decade 1880-1890, in this essential feature of an acceptable child labor law may be noted here. In 1880 an important step toward uniformity was taken when it was required that the Secretary of the State Board of Education should furnish a form for the age and schooling certificate to be used throughout the state.[94]

In 1888 a radical advance was made, excluding from the three types or establishments all children under thirteen.[95] No child under sixteen could be employed therein unless the proper certificate was on file, and no certificate could be issued to a child under fourteen unless there was presented to the issuing officer an employment ticket, signed by the prospective employer, definitely promising employment as stated. The statement of age made in a prescribed form was, as before, to be signed by parent or guardian and duly sworn to, but if such adult did not reside in the town in which employment was sought the child's own signature and affidavit were accepted. The certificate of schooling could be signed only by the superintendent of schools or some one authorized by him, or, in towns having no superintendent, by a member of the school committee duly authorized by vote. It was found that these certificates, once issued, were retained by employers when children left their service and used in engaging others having no working papers;[96] the law was therefore amended in 1890, making the certificate the property of the child and requiring

94. *Acts and Resolves*, 1880, ch. 137.
95. *Ibid.*, 1888, ch. 348.
96. Whittelsey, *op. cit.*, p. 19.

the employer, subject to a fine of ten dollars for failure, to return it to him on termination of employment.[97]

This employment certificate left much to be desired. No proof of age was required, the way being left open for gross dishonesty and deception, yet it was a definite advance over anything devised previous to that time, and compared with the shadowy beginning in 1838,[98] it becomes a striking example of progress. It marks a closer coöperation of educational and industrial interests; it put the employer on the defensive, in that failure to produce it on demand was *prima-facie* evidence of violation of the law. It is not possible to determine the exact effect these more adequate restrictions upon child labor were exercising upon school attendance and the number of children in industry, as statistics on attendance were still unreliable,[99] but fewer children were at work, the number under fifteen employed in the restricted industries falling off during the decade more than one-half.[100] Employers found the school certificate and later the employment tickets so much annoyance that they were inclined to discontinue, so far as possible, the employment of children subject to them.[101]

Very striking, too, is the progress of this decade in school attendance requirements and in the restriction of employment during school time. In 1883 it was provided that no child under twelve years of age might be employed in manufacturing, mechanical, or mercantile establishments during the hours the public schools were in session.[102] The question of hours occasioned some confusion, and the law was amended two years later, substituting the word *days* for the word *hours*.[103] In 1887, in order to combat the illiteracy of foreign-born youth and of those who had not met the schooling requirements in the period of non-enforcement, a law was passed excluding from employment, except during the vacation periods of the

97. *Acts and Resolves*, 1890, ch. 299.
98. *Supra*, p. 39.
99. *Mass. Sch. Rpt.*, 1880, p. cxxiii.
100. Whittelsey, *op. cit.*, p. 67.
101. *Ibid.*
102. *Acts and Resolves*, 1883, ch. 224. This bill became law without the signature of the governor.
103. *Acts and Resolves*, 1885, ch. 222.

public schools, all minors less than fourteen years of age not able to read and write, under penalty upon both parent and employer of not less than twenty nor more than fifty dollars. Nor could a minor over fourteen, who was unable to read and write, and who had resided continuously for one year in a town or city maintaining an evening school, be legally employed unless he was a regular attendant upon some day or evening school. It was provided, however, that if such illiterate's earnings were necessary for his own or his family's support, the school committee might issue a permit authorizing employment.[104] The liberty allowed school committees in this matter was not always used wisely, and in 1890 it became necessary to guard the issuance of the special exemption permits so that only in an unusual case could an illiterate minor escape the requirements of evening school attendance.[105]

The law of 1888, which provided for a more adequate age and schooling certificate, forbade the employment at any time in factory, mechanical, or mercantile establishments of all children less than thirteen years of age, nor could such children be employed for wages in any indoor work during the hours the public schools were in session, nor in any manner during such hours unless during the preceding year they had attended school for at least twenty weeks. This act forbade the employment of children under fourteen earlier than six o'clock in the morning and later than seven in the evening; dangerous employments, as listed by the chief of state police, were also forbidden.[106] Two years later minors over fourteen and women were forbidden employment between the hours of ten in the evening and six in the morning.[107]

In the closing years of this decade other laws were enacted which show how earnestly Massachusetts was seeking to insure to every child the advantages of the best the schools could offer. In the first compulsory attendance act of 1852 poverty of parent or guardian was specified as a reasonable excuse for denying the child the privileges of learning. Since that time,

104. *Ibid.*, 1887, ch. 433.
105. *Ibid.*, 1890, ch. 48.
106. *Acts and Resolves*, 1888, ch. 348.
107. *Ibid.*, 1890, ch. 183.

in the revisions of the law, this cause for exemption had stood. Labor laws had sought to insure to every child at work in mills and factories, and later in stores, at least a few weeks annually in school, but in the general attendance law the poverty clause remained a barrier to complete enforcement. In 1889 this cause for exemption, retained by short-sighted thrift, was allowed to disappear.[108] The next year the annual term of compulsory attendance was extended to thirty weeks for all between eight and fourteen years of age, provided schools were in session so long.[109]

It is well enough to recognize that educational and industrial conditions were not ideal. More than fifty years had passed since Horace Mann, in his report had so mercilessly held up before the public view the many delinquencies of Massachusetts in the administration of her school laws. Wonderful things had taken place in that time, and an excellent system of schools was in operation. The child labor laws, under the oversight of the state police, were enforced much better than formerly, but local school committees and truant officers were as reluctant as ever to bring force to bear upon their neighbors,[110] and the Secretary of the State Board of Education was calling insistently for a state official who could rise above local influences and fearlessly enforce the law, now fairly workable.[111] The truancy law was quite generally neglected, or obeyed only in form. Many towns had met the letter of the law by designating the county almshouses as the truant school. Judges, however, often refused to commit truants to such unsuitable places, and so the law remained largely inoperative.[112] Schools were actually maintained in some of the almshouses, however. For example, in Cambridge was a school of sixty-one, ten being girls. At Lowell, in the same county, a school of about the same size was grouped with the other city institutions, the jail, workhouse, and insane asylum. The secretary remarks, "The authorities in charge do not consider it a fit place for the train-

108. *Ibid.*, 1889, ch. 464.
109. *Ibid.*, 1890, ch. 384.
110. *Mass. Sch. Rpt.*, 1887, p. 165; 1889, pp. 235, 297.
111. *Ibid.*, 1886, p. 184; 1890, p. 97.
112. *Ibid.*, 1886, pp. 170-175.

ing of wayward children into self-respecting and high-minded citizens.''[113]

The closing decade of this century, so full of significance in its changing attitude toward children, was marked by an official study of school attendance and by the enactment of carefully considered laws intended to correct the weaknesses discovered. It was generally recognized that the attendance laws were not well enforced; just how serious the situation was had never been determined. In 1895 the legislature directed the State Board of Education to investigate the subject and report.[114] With the small force available it did not seem possible to canvass the entire state, so fifty typical towns were selected and fairly thorough examinations made, upon which estimates for the state might be based. It was found that parents still regarded the schooling of their children as strictly their own private concern. The law was violated with impunity.[115] The Secretary of the State Board estimated that had fines been collected according to law in the fifty towns studied, the total sum for a single year would have been $2,822,560. The truancy law was also quite generally ignored. The constant neglect of this law was justified by the secretary on the grounds that the truant schools were so manifestly unfit for their purposes. Here, he said:

''The truants' associates were imbeciles, pauper children, the insane and criminal classes. The schools were places for restraint rather than for wise direction. The playgrounds were small enclosures surrounded by high, tight, board fences; the buildings were furnished with cells for confinement. The discipline was symbolized by these things.''[116]

The child labor laws were apparently enforced almost to the letter with the exception that children evidently not more than twelve or thirteen years of age had, through the easy methods of deception invited by the law, secured the necessary papers and were at work.[117]

The results of the investigation are somewhat disappointing,

113. *Ibid.*, 1891, p. 297.
114. *Acts and Resolves*, 1895, ch. 47.
115. *Mass. Sch. Rpt.*, No. 59, pp. 530, 537, 542.
116. *Ibid.*, p. 546.
117. *Ibid.*, p. 545.

as no statistics of value are presented. The report closes with the following recommendations, which later became the basis of amendments or new legislation:

An exact and adequate school census; a more complete system of school registers; a uniform method of transferring pupils so as to enable truant officers to follow attendance; more adequate age and schooling certificate; a method of dealing with those who plead poverty as an excuse for non-attendance; an increase in the length of the school year and the time of required attendance; further restrictions upon employment during school hours; extension of duties and powers of truant officers to private schools; one or more state attendance officers; change name of truant schools to parental schools; provide parental schools for girls; an indeterminate sentence in commitment to parental schools.[118]

The legislature received the report of the board with favor and directed that a plan be presented for carrying its recommendations into execution.[119] Three bills were therefore drafted relating respectively to attendance and truancy, to employment, and to neglected children. At the next legislative session a crowded calendar made it impossible to reach these bills, but an appropriation was made for a further study of the subject.[120] The board revised its bills carefully, secured all available criticism and advice, and appeared before the legislature at the following session with what the Secretary regarded as one of the best considered legislative programs ever presented to that body.[121]

With a few exceptions the provisions of the three bills were enacted into law at this session. The more important changes made in the regulations heretofore in force are listed below:

Attendance and truancy.[122]

1. The minimum length of the school year was increased from six to eight months.
2. The period of compulsory attendance, formerly thirty weeks, annually, between the years eight to fourteen, became regular attendance for the full school session within the years seven to fourteen.

118. *Ibid.*, p. 549.
119. *Acts and Resolves*, 1896, ch. 96.
120. *Ibid.*, 1897, ch. 84.
121. *Mass. Sch. Rpt.*, No. 61, p. 17.
122. *Acts and Resolves*, 1898, ch. 496.

3. The truant officer, who before could proceed against the parent only when directed by the school committee to do so, was now authorized to take action if the child was absent for five day sessions or ten half-day sessions in any period of six months.

4. It was provided that upon complaint a summons instead of a warrant should issue, though a warrant might issue at any later time.

5. The truancy laws were simplified and improved and the county truant schools were made subject to visitation by both the State Board of Education and the State Board of Charities.

Employment.[123]

1. The minimum age at which any child might be employed in a factory, workshop, or mercantile establishment was raised from thirteen to fourteen.

2. All under sixteen were now required to present an employment ticket before working papers could be issued. Heretofore this had been required only of those under fourteen.

3. No child under fourteen could now be employed in any occupation, for wages, during the hours the public schools were in session.

4. The age and schooling certificates were more carefully protected, though the superintendent of schools was given much latitude in determining the sufficiency of the proofs of age.

The legislation of 1898 closed the child labor program of the century with a record greatly to the credit of those who had brought the standards higher year by year. Not all that had been sought at the hands of the legislature had been granted. No truant school had been provided for girls, though strongly recommended in the original program; nor had state supervision or state enforcement of attendance laws been inaugurated, though the local administration was admittedly farcical. There remained, also, most important of all, the problem of adjusting the work of the schools to the needs of those required to attend them, a problem to which relatively little consideration had thus far been given. The partial solution of this problem is the contribution of the second decade of the twentieth century.

There was no new legislation of importance in the first five

123. *Acts and Resolves*, 1898, ch. 494. In 1890, the maximum working week for minors under eighteen and all women had been reduced from sixty hours to fifty-eight.

years of the new century. This was a period of consolidation of gains already made. In 1905 a commission was appointed to investigate the subject of industrial and technical education.[124] The results of this investigation, expressed in the present system of industrial education in the state, will be noted later. During this period the education of illiterate minors over fourteen was receiving attention, and the earlier regulations were strengthened and extended;[125] more adequate proof of age was required, also, of all applicants for working papers.[126] In addition to the legislative order providing for the commission to investigate industrial education, two measures were passed which indicate the scientific attitude then coming to prevail in education. The first was an act making mandatory upon school committees the appointment of school physicians and requiring the careful medical examination of each child at least once a year.[127] The second act was aimed at the oldest and most unshaken of all the classic causes for exemption from the requirements and penalties of the compulsory attendance laws, not only in Massachusetts but throughout the country, namely, the physical and mental disability clause. It was provided that no physical or mental condition capable of correction, or which rendered the child a fit subject for special instruction should be accepted as defense against the compulsory provisions.[128] In the former of these two statutes is evidenced the obligation of the state, already pledged to keep its children in school and free from overwhelming economic burdens, to guard them from disease and to insure them, so far as possible, normal physical development. The latter provision, while affecting relatively few children, shows the determination of society to adjust its scheme of education to every child capable of profiting in any degree by instruction or treatment.

In addition to these important constructive statutes enacted in 1906, two other measures command attention as marking

124. Appointed June 7, 1905.

125. *Acts and Resolves*, 1902, ch. 183; 1905, ch. 320; 1905, ch. 267.

126. *Ibid.*, 1904, ch. 432; 1905, ch. 213.

127. *Ibid.*, 1906, ch. 502. The first compulsory medical inspection in the United States.

128. *Ibid.*, 1906, ch. 383.

progress in the development of definite standards and firmer administration. The first defined the expression, "ability to read at sight and to write simple sentences in the English language," the standard of literacy required for working papers, as such proficiency as would enable the child to classify in the public schools of his town or city in the second grade in 1907, in the third grade in 1908, and thereafter in the fourth grade.[129] The second measure modified the child labor law, extending the authority of factory inspectors to mercantile establishments, giving greater power to truant officers, and making possible a fine of three hundred dollars, with a jail sentence in addition, for violation of the law. Inspectors and truant officers *willfully* and *knowingly* neglecting their duties were made liable to a fine of not more than one hundred dollars.[130]

Another movement which began to take more definite form about this time and which has profoundly influenced the later compulsory legislation in this state and elsewhere, is that which expresses itself in various forms of industrial education. The industrial education of the twentieth century is but a part of a great social movement arising from the new philosophy of education which demands that every child be given opportunity to develop such abilities as he may potentially possess, to attain as nearly as possible his maximum capacity as a contributor in an economic and broadly social sense, not as an individualistic exploiter of the goods of life, but as a social unit whose welfare cannot be considered apart from that of society, and in whose limitations society must also suffer.

It is not necessary to review the extent to which mere ability to read and write has been emphasized in the development of compulsory education. Based originally upon a religious necessity, such elementary knowledge became the standard of minimum attainment in every state and country. But a modern system of teaching may put the child in command of the art of reading in a few months. To-day, in the six or eight years of school attendance which are required, much more than the former standards must be attained. Literacy, still ostensibly

129. *Acts and Resolves*, 1906, ch. 284.
130. *Acts and Resolves*, 1906, ch. 499.

conveying the idea of ability to write and spell, is coming to mean far more than that. Economically this may be expressed as industrial efficiency. No doubt the earlier demands for a richer course of study were based largely on economic considerations. The legislature in 1870 added drawing to the subjects required to be taught in the schools throughout the state, and in towns and cities of over 10,000 population made free instruction in both industrial and mechanical drawing compulsory.[131] A special state agent was brought from England[132] to direct and supervise the work in the schools and to instruct teachers.[133] This action was stimulated by a petition, signed by manufacturers and other business men, presented to the legislature in 1869. These men were thinking of the specific industrial needs of the state, and were not petitioning in behalf of the children; development of skill in the interests of commercial leadership was the aim.[134] In 1882 a committee appointed by the state board to look into the subject of industrial education, reported in favor of manual training, not for its specific trade value, but as a part of a general preliminary education.[135] In 1884, instruction in manual work was authorized by law, in 1895 it was required in high schools in cities of over 20,000, and three years later in both elementary and high schools in such cities. By 1906 manual arts of some sort was a part of the elementary course of study, not only in the cities required by law to maintain it, but in fifty-nine smaller towns as well.[136]

There was at this time considerable dissatisfaction with the results of the industrial work already attempted. The law requiring manual training in both high and elementary schools in the larger towns and cities, while complied with in many places, carried no provision for enforcement, and in certain cities its terms were entirely ignored or only partially met.[137]

131. *Mass. Acts and Resolves*, 1870, ch. 248.

132. *Mass. Sch. Rpt.*, No. 35, p. 109. Mr. Walter Smith, head master of the School of Arts, Leeds, was the first state agent of drawing.

133. *Mass. Sch. Rpt.*, No. 34, p. 163 ff.

134. *Ibid.*, No. 34, p. 143.

135. *Ibid.*, No. 46, p. 156.

136. *Ibid.*, No. 71, p. 189.

137. *Report of Commission on Industrial and Technical Education*, p. 14.

There was a feeling that relatively few children destined to become industrial workers were gaining what the advocates of the law had intended for them; that the prevailing education of the schools was not such as might best insure to the state her industrial leadership.

Again the demand for a new order in education came from the business interests rather than from those in charge of the schools. The legislature in 1905 directed the governor to appoint a commission to inquire into the subject of industrial and technical education.[138] Governor William L. Douglas, himself a manufacturer, appointed the commission which, under the direction of its chairman, Carrol D. Wright, made an extensive study of industry in the state, and of the industrial aspects of education. A sub-committee was appointed to have special charge of an investigation into the condition and needs of children between fourteen and sixteen.[139]

The investigation of the sub-committee covered forty-three cities and towns representing every section of the state. No fewer than 5,459 children were followed into 3,157 different homes and into 354 establishments representing 55 industries. It was found that about 25,000 children between fourteen and sixteen were either at work or were out of school and idle. Of these, five-sixths had not had schooling equivalent to that of the grammar grades, hence could not have profited by such industrial training as the schools were supposed to offer. One-third of these children left school to enter upon unskilled industries; nearly all the rest were engaged in work requiring only low grade skill, work consisting of constant repetition of some simple, single process easily and quickly learned. Only two per cent had entered high grade industries.[140]

The commission held twenty public hearings throughout the state in as many industrial centers, meeting hundreds of manufacturers and their employees. It appeared that everywhere there was a lack of skilled workmen and of "industrial in-

138. *Mass. Acts and Resolves,* 1905, ch. 94.

139. Though Massachusetts long delayed a state-wide program of compulsory education for children between fourteen and sixteen who are engaged in her industries, the work inaugurated by this commission has been so far-reaching in its influence as to warrant brief consideration in this study.

140. *Report of the Commission,* pp. 25-28.

telligence." After a careful consideration of the entire industrial-educational situation the commission concluded that a radical modification in the school system was required. It was proposed that both instruction and practice in the elements of productive industry should have a place in elementary schools; that in the high schools, mathematics, the sciences, and drawing should be presented with particular reference to local industrial life. It was further proposed that in existing schools much larger place be given to both instruction and practice in the elements of productive industry, and that, in addition, there should be created a separate system of industrial education, with part-time or continuation schools for children already employed.[141]

Though the commission did not definitely recommend compulsory attendance upon the proposed industrial schools, employers, though apparently favorable to some form of industrial education, began to insist at once that if working children be required to attend, it be upon evening sessions only.[142] At the same time labor organizations were inclined to look with suspicion upon the program. They feared that the proposed schools, frequently referred to as "scab hatcheries," would turn out workmen in such numbers as to affect the labor market.[143]

However, on recommendation of the commission, the legislature made provision for a permanent board or commission on industrial education which, coöperating with local authorities, undertook to establish industrial state aided schools in the more important manufacturing centers.[144]

The separate industrial school system was maintained for only three years. In 1909 the State Board of Education was reorganized, taking its present form. To it were assigned the powers and duties of the Industrial Commission. The executive officer, instead of secretary of the board, became commissioner of education, and it was provided that one of his

141. *Rpt. Com. on Indust. and Tech. Ed.*, pp. 18-22.

142. *Second Rpt., Com. on Indust. Ed.*, p. 626.

143. Report of the first commission, pp. 6, 7.

144. *Mass. Acts and Resolves*, 1906, ch. 505. This dual form of organization was adopted by Wisconsin in 1911.

two deputies should be especially qualified to deal with industrial education.[145]

In many of the cities part-time classes were established by local boards, mostly in the evening, but attendance remained entirely voluntary. The evening schools perhaps served the purpose intended. They offered further educational opportunity to ambitious boys and girls who, obliged to work during the day, were willing to devote their evenings to self-improvement. They could do nothing for the great masses of young workers who lacked motive or physical strength to undertake the double burden. Wisconsin had established continuation schools and was requiring the attendance of children working under employment certificates,[146] but in Massachusetts action so radical in character was not to be expected. The situation, clearly demanding compulsion in the higher interests of her working children, was met with the conservatism and the regard for community rights which have ever distinguished the commonwealth. In 1913 the legislature authorized towns and cities maintaining continuation schools to require the attendance of all between fourteen and sixteen, to whom working papers had been issued and who were regularly employed. Attendance was to be for not less than four hours a week, and on a working day between eight in the morning and six in the afternoon. It was required that the time spent in school be included as a part of the forty-eight hours, during which the child might legally be employed.[147] To encourage the establishment of such schools the state undertook to pay to the community a sum equal to one-half the cost of maintenance.

Boston was the only city to invoke the compulsory provisions of this law. Several attempts were made to require attendance under general statute, but hostile influences successfully resisted the movement until the legislative session of 1919, when continuation schools were made compulsory throughout the state and attendance required of all children between fourteen and sixteen employed on certificate.

145. *Ibid.*, 1909, ch. 457. *Mass. Sch. Rpt.*, No. 74, p. 84.
146. Investigating committee appointed, 1909; schools established, 1911.
147. *Acts and Resolves*, 1913, ch. 805.

As in New York, Pennsylvania, and other states, so in Massachusetts there has been in recent years a distinct movement toward centralization of the powers of government. In 1912 the diverse authorities to which had been assigned the duty of administering the labor laws were consolidated in a new body, a State Board of Labor and Industries.[148] Five persons constitute this board, of whom one must be an employer of labor, one a wage-earner, one a physician or a sanitary engineer, and at least one a woman.

The following year the school attendance law was strengthened in certain details,[149] and the provisions for employment certificates so revised as to require a new certificate in case a child under sixteen sought a new place of employment.[150] It was required that, on termination of employment, the certificate be returned within two days to the office of the school superintendent issuing it.

As amended, the child labor laws were more readily enforceable, and the new board of labor and industry, while disposed to favor employers so far as possible, announced its intention of eliminating the illegal labor of children. Employers were assured, however, that there would be no prosecutions until all had been fully informed as to changes in requirements.[151]

Lack of harmony in the board led to an almost complete change in its personnel within the second year of its existence. Its first report was signed by four of its five members, the dissenting member, Mr. Channing Smith, the representative of the manufacturers, submitting a minority report which throws considerable light upon the industrial situation. Its language is that of the benevolent manufacturer of the middle of the nineteenth century who, while growing rich from the labor of

148. *Ibid.*, 1912, ch. 726. The board took over the powers and duties with reference to the enforcement of laws relating to labor formerly exercised by the district police, the state board of health, and the inspectors of factories and public buildings.

149. *Acts of 1913*, ch. 779.

150. *Ibid.*, ch. 779. The employment certificate of 1913, carefully guarded at nearly every essential point, should be compared with the first certificate of 1838, designed to favor the employer, and to protect him in case of prosecution. *Supra*, p. 39.

151. *First An. Rpt., State Board of Labor and Industry*, p. 9.

children, saw in constant employment not accompanied by too much schooling the highest interests of the toilers. The new law, Mr. Smith maintained, had thrown 17,000 children out of employment in the four months of its operation. Few had returned to school and in the idleness of the others there was personal and social danger. "My sympathies," he said, "go to the rank and file of labor, to whom no one seems to lend a helping hand against the misguided efforts of paid agitators, social workers and professional politicians."

He was deeply stirred by the contemplation of the sufferings of fathers and mothers of large families, whose income was now seriously reduced, and he demanded for such parents the continued benefits of the earnings of their children. He referred to the good old days when boys and girls were brought up in honest industry, adding, "and those were the days when men and women were produced." Mr. Smith objected to continuing the child in school after he had attained a fair knowledge of the common branches, saying:

"Massachusetts is duty bound to give each of its children a good common school education, and by this I mean more of the old-fashioned grounding in reading, writing, and arithmetic, and more benefit will be gained for the child by doing this than by raising the school age to sixteen years, and putting in all the frills and fancies which go with the modern school education.

"If Massachusetts is to continue to be a leader industrially we must call a halt on the theorist and faddist,—people who have been eagerly working overtime in building up an industry of their own,—an industry of busy bodies who countenance attacks upon and seem delighted at the handicapping of the legitimate industries of the state and nation."[152]

The Board, practically re-constituted in 1915, carried out the policies announced in the first annual report. Employers were instructed in the new requirements and inspectors continued to seek their friendly coöperation. Many orders as to the employment of children were issued, but prosecutions were rare.[153]

152. *The Report*, pp. 23-27.

153. *Third An. Rpt. Bu. Indust. and Lab.*, p. 9. Of 7,096 orders issued during this year, 6,500 bore directly upon the conditions under which women and children were employed. There were three prosecutions for the employment of children under fourteen.

Between 1913 and 1916 several minor changes were made in the child labor and schooling laws. There appears a tendency to adjust the requirements to meet the demands of special groups of persons upon whom the legislation of 1913 worked real or fancied hardship. For example, it was provided that the local superintendent might issue papers to a child who, though of legal working age, had not attained to the standard of scholarship required by law, if in the judgment of the issuing officers the child was not capable of acquiring the prescribed learning.[154] A year later the law was amended, giving the local school superintendent power to excuse double the number of absences formerly permitted in any period of six months.[155]

But the most conspicuous example of relaxation in the standards of 1913 is a measure passed in 1916 authorizing the issuance of working papers good for the summer vacation only, to children between fourteen and sixteen not able to meet the scholastic requirement.[156] Expert students of the problems of child labor are almost unanimous in the condemnation of vacation working permits. The enactment of this law was regarded as a distinct step backward. Its author claimed as its chief advantage the relief afforded to children of foreign birth who had not been able to reach the fourth grade in the public schools and who, though of legal age, were forced to remain idle during the summer.[157]

But two of the more recent changes in the Massachusetts laws relating to education have direct bearing upon this study. In the year 1909 the child between fourteen and sixteen applying for working papers was required to present a school record showing that he was eligible for classification in the fourth grade of the public schools. In 1919 the law was amended, providing that the applicant must be able to classify in the

154. *Acts and Resolves*, 1914, ch. 580.

155. *Ibid.*, 1915, ch. 8. Absences amounting to seven days were now permitted.

156. *Acts and Resolves*, 1916, ch. 66. This bill was drafted by W. H. Perry, superintendent of the Leominster public schools; its passage was resisted by the social workers of the state, but urged by many manufacturers.

157. *Leominster Enterprise*, May 17, 1916.

sixth grade.[158] The second change especially significant at this time, was the extension of the part-time or continuation school law to the entire state, making the establishment of such schools obligatory in all towns and cities in which as many as two hundred minors under sixteen are legally employed.[159]

The law provides that any such minor, whether employed at home or elsewhere, shall attend continuation school, if one be established in the community of employment, for at least four hours each week, this time being included as a part of the number of hours he is permitted, under the law, to work. If temporarily out of employment, the youth is required to be in school full time.

The state offers financial aid to the extent of half the total sum raised by local taxation and expended for the maintenance of continuation schools or classes, provided the work and the equipment are approved by the State Board of Education. If a community required under the law to establish such a school should fail to do so, it may be compelled to forfeit a sum equal to twice that estimated by the State Board of Education as necessary properly to establish and maintain such a school. Three-fifths of this forfeiture shall then be turned over to the local school committee to be used by it for the maintenance of a continuation school precisely as though the sum had been appropriated by the city or town for that purpose.[160]

The law required that continuation schools should be put in operation at the beginning of the school year, 1920-1921. Forty-four such schools have been organized up to March, 1921, with an attendance of 24,827, slightly more than half being boys. The courses given are both academic and industrial, the latter being most largely in evidence. In the main, attendance is good, though the director of vocational education reports certain difficulties not yet adjusted.[161]

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158. *Acts and Resolves*, 1919, ch. 281.

159. *Acts and Resolves*, 1919, ch. 311.

160. The continuation school may be established by the school committee or by the local board of trustees for vocational education or by both. Advantage may be taken of established educational agencies, and any suitable quarters approved by the state board of education may be used, but when established the school is regarded as a part of the public school system of the municipality.

161. Data by Mr. Robert O. Small, Director of Vocational Education.

Massachusetts has adhered rigidly to her historic method of local responsibility in enforcing general school attendance. Nowhere else have the weaknesses of strictly local methods been more clearly pointed out, but while the state has accepted almost complete responsibility for the enforcement of child labor laws, it has not been favorable to taking over any share in the task of securing attendance upon the schools. While she still ranks high in the proportion of her school population in attendance upon means of education, her advance over a series of years has not been notable, all the other states included in this study having made greater progress in this respect.[162] Since the state must depend entirely upon reports from the many local authorities as to school attendance and the degree in which attendance laws are enforced, the statistics in this field are far from satisfactory. From a study of the materials available it is evident that, in general, the compulsory attendance requirements have been laxly administered.[163] As something of a check, data bearing upon attendance were secured through the coöperation of the superintendents of schools in three fairly representative cities of the state with population varying from fifteen thousand to one hundred fifty thousand.[164] The following table exhibits the conditions prevailing in these communities.

TABLE I

Showing attendance in three Massachusetts districts

First six months, 1920-1921

Cities	Number of children age 7-13 inclusive	Number attendance officers	Extent of enforcement reported	Percent age of attendance	Number of children of age 14-16	Number of working papers issued	Number in continuation school	Number of parents prosecuted
Fall River	17247	7	Complete	92	4500	2378	2500	0
Framingham	2200	1	"	91.7	516	204	0	0
Worcester	19934	5	"	89	2247	2247	1700	30

162. See diagram, p. ~~60.~~ 254

163. *Supra*, pp. 69, 70, 76.

164. The writer is indebted to Mr. Ernest W. Fellows, Mr. H. L. Belisle, and Mr. Harvey S. Gruver, superintendents at Framingham, Fall River, and Worcester, respectively, for their assistance in this instance.

It would appear that in these three districts a satisfactory degree of attendance is secured, with every child accounted for. In Fall River the number reported in continuation school is greater than the total number of working papers issued, but it is to be remembered that the child must attend school not in the district in which he resides and where he secures his working papers but in the district in which he is employed. It is significant that in the district in which is found the lowest percentage of attendance there have been several prosecutions during the year, while in Fall River, a city formerly known as a sad offender in regard to both child labor and attendance laws, the rate of attendance is highest and no parent has been proceeded against for violation of the schooling requirements.[165]

Under the authority of the State Board of Labor and Industry the child labor laws are administered with a fair degree of efficiency. Thirty-three inspectors are constantly busy in the discharge of their duties, one of which is to see that no children are illegally employed.[166] Yet there is evidence that far too many children succeed in entering employment contrary to law and in holding their places in defiance of the vigilance of the inspectors and the attendance officers.[167] Offending employers are no longer treated with the tender leniency formerly extended to them, yet penalties are not heavy and rigid compliance with the law is sometimes inconvenient.[168]

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165. During the school year 1919-1920, one parent and two hundred sixty-six employers were prosecuted in this city for violation of the child labor laws.

166. The statutes now provide for thirty-nine inspectors.

167. A study of a thousand accidents to children between fourteen and sixteen employed in Massachusetts reveals that over two hundred, more than twenty per cent, were employed contrary to law, either without proper working papers or in some forbidden occupation. *The American Child,* November, 1920, pp. 222-229.

168. In recent years, between 200 and 300 cases have been brought annually against employers who have violated some part of the child labor laws. There have been relatively few acquittals. In the year 1917, thirty-three per cent of all cases instituted by the inspectors were for the illegal employment of children; in 1918, sixty-eight per cent, and in 1919, fifty-seven per cent of all cases were on account of children. See *Fifth, Sixth,* and *Seventh Annual Reports, State Board of Labor and Industries,* pp. 20, 14, and 9, respectively.

There is no organic connection between the labor inspectors and the school authorities, intimately as their duties are related, except that all working papers are issued by the latter. To the layman it seems probable that with an adequate statewide system of child accounting, and with reasonable coöperation between attendance officers and inspectors, every child might be followed up and his illegal employment prevented.[169]

In certain respects other states have passed beyond Massachusetts in the protection of children, yet almost every advance in the progressive development of child labor laws and compulsory measures for the education of the masses in America may be traced to this commonwealth, or to people whose ideals were shaped within her borders. In the Colonial period there was only a partial appreciation of the rights of childhood, yet even then there was a zeal for education not equalled elsewhere in the world. Under the heavy handicaps of the "dark days of New England," and those days of industrial darkness in the first half of the nineteenth century, progress has seemed slow. Sometimes there was apparent retrogression. In recent decades there has been constant warfare with totally unscrupulous manufacturers and with parents quite willing to mortgage the future of their children for their present meagre earnings. There has been the insidious menace of the kind-hearted, philanthropic, but misguided employer holding to the earlier theories regarding the moral value of child labor and firmly convinced that for the mill child no education beyond mastery of reading, writing and arithmetic is desirable. There have been enthusiastic but poorly balanced social workers who, by ill-considered measures, have antagonized elements whose coöperation in successful law enforcement is necessary.

169. The inspectors find many children to whom proper working papers have been issued engaged in labor, not suited to their strength or state of health. Often the employer changes the assignment of work after the child enters upon the task originally approved. In other instances an inadequate medical examination has failed to reveal some disability or weakness which may later cause serious accident either to the child or a fellow worker. A study recently made of the medical examinations of applicants for working papers in the years 1917, 1918, and 1919 shows that in many cases not more than two minutes were given a child, sometimes only one minute or even less. *Seventh Annual Report, State Board of Labor and Industries,* pp. 26-33.

Notwithstanding these and other obstructive elements a record has been made for which no apologies need be offered. The principles of American government, firmly grounded in English tradition, have been developed. Gradually the will of a people has expressed itself in a degree of state control, of compulsory procedure which, suddenly proposed, would have appeared intolerable. Always the method of progress has been the same; the practice of a more adequate and enlightened method by a few communities; a gradual extension of such method to the towns and cities of the state; permissive legislation; general legislation; usually without adequate means of enforcement; finally strict enforcement with exaction of penalty for non-compliance with the letter of the law.

CHAPTER V

CONNECTICUT

Connecticut has in some respects passed beyond all other states in the effective enforcement of her compulsory attendance and child labor laws. Her large local initiative with the historic town as the unit of control is united with a state authority nowhere else so intimately in touch with the people. The child labor law of this state is by no means a model, nor does the law requiring a minimum of school attendance represent the highest attainment in this form of legislation, yet in the method and efficiency of enforcement other states may well learn of Connecticut. Not the law, but its administration is the contribution of this state.

Conditions of compulsory education and child labor in the Colonial and early National periods, already noted, were not essentially different from those prevailing in Massachusetts. It does not appear, however, that organized labor was an important factor in support of legislation intended primarily to benefit the children of working men.[1] The law of 1813[2] had apparently affected the educational status of factory children very little. Henry Barnard found it a "dead letter" in 1840,[3] and urged more adequate legislation in behalf of the youthful workers of the state who were growing up in ignorance.[4] After repeated recommendations by Mr. Barnard, Secretary of the Commissioners of Common Schools, in which the governor joined in milder vein,[5] a law was enacted in 1842, distinctly in advance of the measure of 1813, yet quite as incapable of enforcement. Its chief provisions were:

1. *Woman and Child Wage-Earners in U. S., Senate Doc.,* No. 645, 1910, Vol. VI, p. 92.
2. *Supra,* p. 34.
3. *Sec. An. Rpt. Com. of Schs. Ct.,* p. 24.
4. *Ibid.*
5. *Woman and Child Wage-Earners, op. cit.,* p. 91.

1. No child under fifteen might be employed in any manufacturing establishment, "or in any other business in this state," unless he had attended some public or private day school for at least three months of the preceding twelve.
2. A penalty of twenty-five dollars was fixed for violation of the law by any owner, agent, or superintendent of a manufacturing establishment.
3. A signed statement of the teacher, duly sworn to by him, was evidence that the terms of the law had been met.
4. The school visitors[6] were required to examine into the condition of factory children annually, or more frequently if they saw fit, and were to report all violations to "some informing officer to the intent that prosecutions may be instituted therefor."
5. No child under fourteen was to be employed more than ten hours a day in cotton or woolen mills, under penalty of seven dollars for each offense.[7]

Such evidence as is available indicates that, like the law of 1813, this measure received scant attention. The section prohibiting the employment of children under fourteen for a day in excess of ten hours did not even propose a method of enforcement. No provision was made for penalizing any violation of the law except in the manufacturing industries, while the provisions for carrying out the educational features of the act were ludicrously insufficient. There appears here a crude form of employment certificate similar to that of Massachusetts at the time, and though employers were not required to demand such papers, their possession would settle any disputed case. They furnished, also, a basis for the more complete certificate finally evolved.

The educational system of Connecticut was not so organized at this time as to make a high degree of state control possible. It was the period of largest local authority in education, the districts being legally vested with full control over the schools within their respective limits.[8] The idea that public schools were charity schools, so prevalent outside of New England, had affected the lofty educational conceptions of Colonial Connecticut. The local school societies were unwilling to tax

6. Local school officers, comparable to school committee in Massachusetts.
7. In the same year Massachusetts restricted the hours of factory children under twelve to ten in one day.
8. Steiner, *History of Ed. in Conn.*, p. 35.

their constituencies, keeping the schools open each year only long enough to spend the public money derived from permanent funds.[9] In 1839 a slight degree of state supervision had been attempted, a Board of Commissioners of Common Schools created,[10] and Henry Barnard called to its secretaryship, but the same legislature that enacted the labor-attendance law of 1842 abolished the Commission, thus effectually checking such development of state influence as might eventually have arisen from this body.

By 1844 there was sufficient dissatisfaction with prevailing educational conditions to warrant a legislative investigation. A committee, appointed by the governor under authority of a joint resolution, rendered a severe indictment of the existing system, which in their judgment was less effective than in former years. Teachers, the committee reported, were poorly prepared and poorly paid;[11] equipment was inadequate; about the school buildings there were lacking the ordinary comforts and decencies of life.[12] Compulsory attendance upon such schools could not be considered. The committee recommended, however, as a first step in redeeming the situation, the creation of a state head of the schools. This, it pointed out, need not involve the creation of a new office, the thought of the committee being that some state officer already provided for might be vested with "authority to act in certain cases in interpreting and enforcing laws relating to schools." The committee suggested that

"In order to enable the secretary of state, or other officer, to discharge this additional duty, he might be authorized to employ a clerk or assistant, at a moderate salary, and he might be allowed a small sum for printing, postage, etc."[13]

Such was the vision of a state-administered system of educa-

9. *Barnard's Journal,* Vol. V, p. 119.

10. *Acts of 1838,* ch. 52. Mr. Barnard as secretary of the Board instituted a progressive program but when his work ended with the abolishment of the office his remedial laws were repealed. *Barnard's Journal,* Vol. I, p. 719.

11. Men received, on an average, $15.42 per month; women, $6.86—*Rpt. Supt. Com. Sch.,* 1846, p. 8.

12. *Barnard's Journal,* Vol. XIII, pp. 728, 729.

13. *Ibid.,* p. 730. It was not unusual at this time to assign the duties of state superintendent of schools to some official whose status was more definitely established.

tion attained by a representative group of Connecticut's prominent citizens in 1845.[14]

In pursuance of the recommendations of the special committee, the joint legislative committee on education reported a bill which was passed in both houses by large majorities.[15] In this act of 1845 two items bear upon this study: first, the Commissioner of the School Fund was made *ex-officio* Superintendent of Common Schools;[16] secondly, it was made the duty of the visitors of each school society to choose each year one of their number whose particular duty it should be to visit every common school within the jurisdiction of the society at least twice during the school session, and to make an annual report to the Superintendent of Common Schools. The visitor received the sum of one dollar for each day spent in the discharge of his professional duties. Such authority as the superintendent enjoyed came largely from the fact that he was also Commissioner of the School Fund, and under the law had power to pass upon claims for funds which had been forfeited by school societies through non-conformance with the letter of the law. On the whole the legislation of 1845 was a decided advance towards the erection of a central authority strong enough to supervise and direct the educational forces of the state.

The Honorable Seth Beers, Commissioner of the School Fund and a member of the investigating committee of 1844-1845, became the first Superintendent of Common Schools, and from the beginning devoted himself to a policy which foreshadowed the method of state control now distinguishing Connecticut in her school administration. He urged in succeeding reports the establishment of a central State Board of Education, not unlike that inaugurated in Massachusetts in 1838, and employing a full-time secretary.[17] In 1849 the legislature acting upon another recommendation of the Superintendent, established a State Normal School. The principal of this school was made *ex-officio* superintendent of common schools, and to this double

14. John T. Norton, Seth P. Beers, C. W. Rockwell, Isaac W. Stuart, John Johnston, Samuel Nichold, William T. Russell, Edward Eldridge.

15. *Barnard's Journal, op. cit.*

16. The office of Commissioner of the School Fund was created in 1810.

17. *Barnard's Journal,* Vol. XIV, p. 272.

duty Henry Barnard was called.[18] He accepted on condition that an associate principal be appointed to have immediate charge of the Normal School, leaving him free to devote himself to the common schools.[19]

Mr. Beers had been deeply concerned over the irregularity observed in school attendance. He particularly condemned parents for their indifference, saying, "If a farmer were thus to neglect his young cattle, he would be stigmatized as hard hearted and improvident."[20] Mr. Barnard also devoted much attention to school attendance, estimating that at least 12,000 children were receiving no instruction in either public or private schools. Of these, many, he said, were employed in factories from which they were unable to withdraw because of family necessities. For such, Mr. Barnard recommended the establishment of evening schools.[21] Singularly enough, though he deplored the inability of factory children to leave their work long enough to acquire the rudiments of an education, he did not commit himself to a general policy of state interference or control. He does not even mention the labor-attendance law of 1842, designed to secure for the working child at least a minimum of learning. Indeed, it does not appear that he ever became deeply interested in factory children as a class, perhaps because his energies were devoted so completely to the task of re-creating a general interest in public education. It is almost certain he had not at that time recognized the evil effects of child labor and the need of controlling it. The value of industry had not escaped him, however. In 1850 he wrote:

"After the age of ten or twelve, a portion of each year spent in the discharge of domestic duties at home, or in healthy labor in the field, the mill, the counting-room, or the workshop, under the direction and supervision of parents or natural guardians, will prove of more service to the physical training of most children, and the formation of good practical habits of thought,

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18. Dr. Barnard was secretary of the Board of Commissioners of Common Schools during its short existence, 1839-1842.

19. *Barnard's Journal,* Vol. XIV, p. 274.

20. Rpt., 1848, quoted by Barnard, *op cit.,* p. 271.

21. *Barnard's Journal,* Vol. XV, pp. 295f. Three-quarters of a century later the attendance upon evening schools of working children not graduates of the elementary grades was to be made compulsory. *Seq.,* p. 104.

feeling, and action, than if spent over books in the schoolroom."[22]

He could subscribe whole-heartedly to that part of the Connecticut Code of 1650, still embodied in her laws relating to children, requiring:

"That all parents and masters shall employ and bring up their children and apprentices in some honest and lawful calling, labor, or employment profitable for themselves and the State."

The real responsibility for keeping children in school, Mr. Barnard felt, rested upon local school boards, and he urged such conditions as would attract and hold the children, with forfeiture of public funds in case of serious irregularity in attendance. Finally, when all other expedients should fail he advocated a suffrage restricted by an educational requirement.[23]

Mr. Barnard was a fine type of the New England scholar. He was a man of high ideals and broad social sympathies. One is justified in seeking to ascertain his attitude toward child labor and compulsory school attendance, for it probably represents the most generous and statesmanlike views of the period. It is clear that he approved of large local responsibility in education, yet he recognized that only through some compulsory state direction could the masses be educated, saying:

"As education is a want not felt by those who need it most, for themselves or their children, . . . as it is a right which is inherent in every child, but which the child cannot enforce, and as it is an interest, both public and individual, which cannot safely be neglected, it is unwise and unjust to leave it to the sense of parental duty, or the unequal and insufficient resources of which individuals, and local authorities, under the stimulus of ordinary motives, will provide. If it is thus left, there will be the educated few and the uneducated many."[24]

During the superintendency of Dr. Barnard there was no significant legislation bearing upon the labor or education of children. A mild agitation on the question of shorter working hours was continued. Governor Seymour became interested and urged legislative action. He suggested that ten hours be

22. *Ct. Sch. Rpt.*, 1851, p. 11.
23. *Barnard's Journal*, Vol. XV, pp. 299-302.
24. *Barnard's Journal*, Vol. XV, p. 291.

made a legal day for adult labor and eight hours for children.[25] Evidently there was considerable opposition, joint committees of the two houses reporting adversely. In 1855, however, a law was passed,[26] providing that in absence of contract, ten hours should constitute a day's labor in mechanical and manufacturing establishments. Children under nine years of age might not be employed in such establishments at all, and minors under eighteen were limited to eleven hours a day. The next year the law was amended,[27] excluding children under ten from factories, and lengthening the working day for minors to twelve hours, with a maximum of sixty-nine hours in a week. The penalty for violation was fixed at twenty dollars for each offense; enforcement was left to constables and grand jurors.

This law, like that of 1842, gave little promise of enforcement. Nothing is said as to its effect in the educational reports until 1860, when the superintendent complains that "the laws relating to the employment of children in factories are not enforced in some parts of the state."[28] He lays the responsibility for the infraction of the law not so much upon the agents and superintendents of the mills employing children as upon "the cupidity and necessity of the parents who receive the pittance earned by the child." He adds, "The subject is becoming one of importance in our cities and manufacturing villages, and may call for additional legislation."[29]

The Civil War interrupted the educational program that had been shaping itself along the lines indicated by Seth Beers and Henry Barnard, but at its close there was renewed activity. In 1865 the proposed State Board of Education was created, with a paid secretary, an *ex-officio* member of the Board and its executive officer. It is this central organization with its large powers, acquired almost as much through custom as law, that has given Connecticut her unique place among the states in the enforcement of laws pertaining to children.

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25. *Woman and Child Wage-Earners in U. S., Senate Doc. 645,* 1920, Vol. VI, pp. 92, 93.
26. *Acts of 1855,* ch. 45.
27. *Acts of 1856,* ch. 39.
28. *Conn. Sch. Rpt.,* 1860, pp. 10, 11.
29. *Ibid.*

A truant law was enacted in the same year,[30] 1865, giving to each town authority to make all necessary arrangements for the custody and education of habitual truants and idlers between the ages of seven and sixteen.[31] Any truant or idler within these ages was subject to apprehension and fine of twenty dollars or less, but in lieu of fine the court might commit the child to some suitable institution of instruction or reformation. The mayor was to appoint annually three or more persons who were vested with exclusive power to prosecute.

Child labor, following the war, was apparently increasing, although no reliable data had been collected. The first secretary of the Board of Education, Mr. Daniel C. Gilman, made some inquiries in the factory districts, finding the law of 1842 generally neglected. He, like Barnard, did not blame the manufacturers for the violation of the law but rather the needy or avaricious parents who forced their children into the mills in spite of occasional protests from school visitors and newspapers. "Public opinion," said the secretary, "does not cry out for the execution of the law."[32]

Secretary Gilman was confident that he could secure the ready coöperation of the larger manufacturers in the enforcement of a suitable law restricting the labor of young children.[33] The Board of Education therefore set to work to secure legislation adapted to the industrial situation in the state, with the result that in 1869 one of the most significant educational laws thus far placed on the Connecticut statute books was enacted. In many respects it resembled the discredited law of 1842, but a single section probably saved it from the uselessness of that measure. Its chief provisions follow:

1. No child under fourteen might be employed in mill, factory, or other business unless he had attended some public or private school for at least three months of the preceding year.

2. The penalty upon any employer for violation of the law was a fine of not to exceed one hundred dollars.

30. *Rev. Stat. of Conn.*, 1866, ch. 4, sec. 56.

31. In 1856 the school societies were abolished and their functions were transferred once more to the towns.

32. *Conn. Sch. Rpt.*, 1867, p. 85.

33. *Conn. Sch. Rpt.*, 1866, p. 83.

3. As in the law of 1842, the sworn statement of the teacher held by the employer was sufficient evidence that the terms of the law had been met.

4. It was made the duty of the state attorneys instead of the town constables and grand jurors, to enforce the law.

5. The significant part of the measure appears in section three, which is: "The State Board of Education may take such action as may be deemed necessary to secure the enforcement of this act, and may appoint some one of its members, or some other suitable person, an agent for that purpose. Such agent shall at all times be subject to the direction and control of said Board, and shall be entitled to receive from the State Treasury for any service rendered under the provisions of this act, the sum of five dollars per day for the time actually employed, and necessary expenses."[34]

The Board of Education lost no time in putting the new machinery of enforcement in motion. On July 21, 1869, Mr. Henry M. Cleveland was duly appointed agent and given the duty of interpreting the law and organizing his work.[35] Mr. Cleveland proved a tactful and efficient agent. He decided to gain the coöperation of the manufacturers in carrying out the spirit of the law rather than to resort to force in order to secure its immediate operation. He visited the mills and factories, advising that the children employed be divided into three groups, each group to attend school for the required three months, but only one group withdrawing from employment during a given period. In this way, once adjustment had been made, the manufacturers could continue without bringing in new help. After presenting his plan to the manufacturers Mr. Cleveland induced them to sign the following agreement:

"We hereby agree that from and after the beginning of the next term of our public school (or schools) we will employ no children under fourteen years of age, except those who are provided with a certificate from the local school officers of actual attendance at school the full term required by law."[36]

34. A somewhat similar method of enforcement had been attempted in Massachusetts in 1867, but had failed. Section three, authorizing the Board to employ an agent to enforce the law, has remained practically unchanged to this day. Even the agent's remuneration has continued at precisely the same figure, five dollars per day and necessary expenses, through all the changing industrial conditions of the years 1869 to 1919.

35. *Conn. Sch. Rpt.*, 1870, p. 17.

36. *Ibid.*, p. 19.

Mr. Cleveland found the manufacturers very ready to coöperate, only one, "the firm of Brown Brothers, of Waterbury," refusing to sign the agreement.[37] Some were prepared to give financial support to the movement to secure the education of the mill children. Cheney Brothers, silk manufacturers at Manchester, built a fine school-house at a cost of twelve thousand dollars, and provided three teachers at a combined annual salary of two thousand dollars. Governor Sprague and others also provided buildings.[38]

While the chief concern of those supporting the law of 1869 was the education of factory children, the measure applied to all employers of children alike, merchants, mechanics, farmers, as well as mill owners and manufacturers. The Secretary said of it:

"It recognizes the claims of the humblest child to that education which is essential to meet the duties and responsibilities of life, a claim which the state cannot neglect without detriment to itself as well as harm to a human soul."[39]

But an unexpected difficulty was encountered in enforcing the employment-schooling law. Mr. Cleveland had not reckoned with the indifference or positive hostility of parents and children to educational matters. It was supposed that, the coöperation of the factory authorities once secured, the working children under fourteen would automatically spend three months of each year in school. But the agent found that many children sent from the mill had not entered school at all.[40] In other places the schools could not accommodate the pupils.[41] In an attempt to force parents to keep their children in school for the minimum time a law was passed in 1871 which required that every parent or guardian, whose child had been discharged temporarily for the purpose of attending school, send such child to school for the legal period, subject to a fine of five dollars for each week of neglect. The local board of school visitors was empowered to excuse attendance in case of mental or physical disability, or if found "that the

37. *Ibid.*, p. 20.
38. *Ibid.*, p. 21.
39. *Ibid.*, p. 33.
40. *Conn. Sch. Rpt.*, 1871, pp. 11, 12.
41. *Ibid.*, 1873, p. 20.

pecuniary necessities of the parents of such child require his or her continued absence from school."[42]

Little attempt was made to enforce the law applying to parents. It is doubtful if many of those most concerned with the welfare of factory children were favorable to the principle of compulsion at the time of the passage of this act. The truant law of 1865 was enforced in a few of the cities with satisfactory results and the measure of 1869 was not openly opposed by manufacturers, thanks to Cleveland's tactful administration. "But," said the secretary of the Board, "the legal right of any parent or guardian to keep his child out of school whenever and for whatever causes he thinks best, will be strenuously maintained, even if great harm results to the child and the community. Any attempt to remedy the evil by further legislation will probably do more harm than good."[43]

At this time the educational leaders in the state began to advocate a general compulsory attendance law. Such a measure, following the order of development in Massachusetts, would be the logical outgrowth of the laws of 1842, 1865, and 1869; moreover, a national movement towards universal education was now expressing itself in the laws of representative states throughout the country.[44] Apparently there was no popular demand for such legislation in Connecticut, even the Secretary of the Board of Education regarding it as of doubtful value.[45] A careful examination of compulsory school attendance, as enforced in European countries, convinced the Secretary, Dr. B. G. Northrop, that such laws were not undemocratic, as so commonly argued in this country, but were truly "the legal expression of the public will." He became, then, after his visit abroad, a strong advocate of a compulsory law in Connecticut, and in 1872 such a measure was enacted.[46]

The compulsory attendance law of 1872, after restating the ancient requirement that those having charge of children

42. *Ibid.*, 1872, p. 268; *Conn. Statutes*, Act of July 5, 1871, ch. 52. Excusal because of poverty has remained a characteristic of the Connecticut attendance laws ever since this date.

43. *Conn. Sch. Rpt.*, 1872, p. 17.

44. Massachusetts, 1852; Michigan, 1871; Kansas, 1874.

45. *Conn. Sch. Rpt.*, 1872, p. 29.

46. *Acts*, 1872, ch. 77.

should "bring them up in some honest and lawful calling or employment," and cause them to be instructed in the common branches of learning, provided that all between the ages of eight and fourteen years should attend some public or private school for at least three months each year, unless instructed at home or prevented from attendance by mental or physical disability. The law carried employment restrictions in harmony with the child labor act of 1869, with the same penalty, a fine of not more than one hundred dollars, for violation. Parents or guardians permitting the violation of the attendance provisions were subject to a fine of five dollars for each week of non-attendance, except that in no case was the penalty to be continued beyond thirteen weeks in one year.

In December, 1871, the Board of Education had accepted the resignation of its state agent. He had gained the good will of the manufacturers in his liberal administration of the child labor law, but had been able to accomplish little with parents and local school authorities. The particular work that Mr. Cleveland had undertaken had been completed, however, and for a year the Board had no representative in the field.[47] After the passage of the compulsory attendance law of 1872 the Board decided to resume the field work and in November of that year engaged the Honorable Giles Potter as its agent.[48]

Mr. Potter, on taking up his duties in the fall of 1872 found little inclination on the part of parents and local school authorities to coöperate in the enforcement of the law, but manufacturers, as a rule, were ready to meet its requirements. The certificate of schooling had not come into general use, chiefly because it had not been demanded by employers.[49] Mr. Potter sought to establish a system whereby each child under fourteen years, on completing a term of school, would receive a

47. *Conn. Sch. Rpt.*, 1872, p. 15.

48. Mr. Potter was closely in touch with educational conditions in Connecticut, having had long experience as a teacher and school supervisor. He was a member of the legislature in 1872, and had been active in securing the passage of the compulsory attendance law. He served as state agent continuously until 1912, when he was retired on a pension, the only pension, it is said, ever granted a state official of Connecticut. He died in 1920, aged ninety-one. Doubtless he did more than any other man to establish the effective system of enforcing the attendance and labor laws of the state.

49. *Conn. Sch. Rpt.*, 1872, p. 23.

certificate of attendance which, in case he wished to go to work, might be presented to the employer. In support of this proposal, he said:

"Let it be understood that every child who has attended a Connecticut public school has a little diploma for every term, and no employer can have an excuse for not knowing when a child last attended school."[50]

An attempt was made to carry out this crude plan of providing each public school child with a legal certificate of attendance, but school authorities frequently neglected to perform their part, the way was opened for counterfeiting and deceit, and after a year or two the scheme was dropped.[51]

During the early years of his service Potter employed persuasion rather than force in securing obedience to the law. Up to 1878 he had advised prosecution in but two cases, both of which were settled out of court.[52] There were abundant opportunities for prosecution, as children of seven or eight were frequently employed in the mills.[53] But this form of violation was evidently so common that it was not regarded seriously. There was a tendency in the better establishments not to accept very young children, the labor of those under ten or twelve not being deemed profitable.[54] Yet so slightly had the rights of children impressed the people of this thrifty state that when the labor law was revised in 1875, the provision of 1856, that children under ten should not be employed in manufacturing establishments was omitted, leaving no age restriction whatever.[55] Of this Mr. Potter said, in 1881, "I am not prepared to say that it should be reënacted. It is better to enforce the observance of a few laws than to increase the number."[56]

For a decade after its enactment the compulsory attendance law was little more than the expression of a public wish. School conditions had not improved in some sections of the

50. *Ibid.*, 1873, p. 3.

51. *Ibid.*, 1875, p. 44. No satisfactory form of working papers was adopted in Connecticut until 1911; *seq.*, p. 107.

52. *Ibid.*, 1778, p. 24.

53. *Ibid.*, 1874, p. 17.

54. *Ibid.*, 1875, p. 47.

55. *Ibid.*, 1881, p. 22.

56. *Ibid.*

state since the days of Henry Barnard. The central authorities had no power to compel local committees to make suitable provisions for their children. "There are school-houses in the state," reported the agent of the board, "to which no humane school officer can invite, much less compel, parents to send their children."[57] The board patiently carried forward a program of education among the people, as among manufacturers, keeping the penalties of the law in the background,[58] resorting to the courts only in extreme cases.[59] In the end, compliance with the law became general. Those who refused to meet its requirements were more frequently brought before the court and fined; in 1882 one father who was particularly obdurate was permitted to serve a three weeks' term in jail.[60]

It is worthy of note that in the attempt to develop respect for the law in Connecticut the coöperation of the courts was more cordial than in Massachusetts or New York. Prior to 1882 the justice and police courts did not have final jurisdiction over cases arising out of the child labor law, and in case of prosecution there was frequently an appeal to a higher court. At this time the penalty for violation, one hundred dollars, was considered excessive, and the courts, as well as the state's attorneys apparently sympathized with the employer, who was often able to effect a settlement by partial payment of the costs. In 1882 the jurisdiction of the lower courts was extended and the fine made not to exceed sixty dollars. After that date prosecutions were almost uniformly successful in the first instance.[61]

In the decade 1880 to 1890, there was a distinct tendency not only to enforce the laws affecting the employment and education of children more strictly, but to enact more stringent measures. In 1885 the period of compulsory attendance at school was extended to include the years eight to sixteen, but it was provided that children over fourteen need not attend if "properly employed to labor at home or elsewhere," and

57. *Ibid.*, 1873, p. 23.
58. *Ibid.*, 1879, p. 24.
59. *Ibid.*, 1880, p. 20.
60. *Ibid.*, 1883, p. 26.
61. *Ibid.*, 1886, p. 47.

that those under fourteen were not subject to the act if they had attended twelve weeks of the preceding twelve months and were regularly employed. This left the employment of very young children entirely unregulated, subject only to the sixty days of school attendance. Secretary Hines recommended the reënactment of the law of 1856, excluding from factories all children under ten years of age. He said in part:

"The number of children between the ages of eight and ten now employed is not so large that their exclusion from factories would derange any industry, nor could the education of the school for those years and the intermission of labor materially interfere with the acquirement of ultimate skill in any trade or calling."[62]

This last observation was in reply to the argument that a child must enter early upon his labors in order to acquire skill in the chosen industry, an argument advanced regardless of the fact that the great majority of children were given in the textile mills only "blind alley" occupations.

In 1886 the legislature went decidedly further than the secretary had recommended, laying upon the employment of children the following restrictions:[63]

1. No child under thirteen could be employed in any mechanical, mercantile, or manufacturing establishment.
2. Any violation was punishable by a fine of not more than sixty dollars.
3. An employer could not be held guilty if he had on file a certificate from the town clerk or from any teacher of a school attended by the child, or from the parent or guardian, to the effect that the child was thirteen years of age.
4. The penalty for false statement by parent or guardian was a fine of not more than sixty dollars.
5. Enforcement was laid upon the State Board of Education, local school visitors and town committees.
6. The Board of Education was authorized to employ agents to assist in enforcement.

Secretary Hines[64] was frankly skeptical as to the wisdom of this measure, so far in advance of previous requirements. He had believed the state to be ready to exclude from factories

62. *Conn. Sch. Rpt.*, 1886, p. 35.

63. *Acts*, 1886, ch. 124.

64. Charles D. Hines was called in 1884 to the secretaryship of the Board of Education, a place which he still occupies.

children under ten, but this law advanced three years beyond that age. The law he thought would bear heavily upon parents who might be dependent upon the earnings of their children; the children themselves, kept so long from learning to work, would suffer. He feared, also, the enforced idleness of the long vacations and the effect upon those who, under former conditions, might be bribed to attend school for three months by the prospect of remunerative employment for the rest of the year.[65]

The Board prepared to enforce the law vigorously, appointing six additional agents to assist in the work. Experience had shown that very little aid might be expected from local officials. As early as possible an attempt was made to ascertain the manufacturers' attitude toward the measure. Of thirty-nine interrogated, thirty-one were favorable, the following reasons being advanced in its support by various employers:

1. Children under thirteen years of age ought not to be employed, but should be in school regularly.
2. The labor of children under thirteen years of age is not profitable.
3. A youth is more likely to become thoroughly skillful and useful if not put at work earlier than thirteen.[66]

The eight employers opposed to the law advanced practically the same reasons as those suggested by Secretary Hines. The agents, in touch with the actual conditions throughout the state reported the law as too drastic, and suggested as a compromise that children under eleven be excluded from the restricted employments, while those under fourteen be employed only during the vacations of the schools. Fortunately their suggestions were not adopted by the legislature. The agents did not permit their skepticism as to the wisdom of the law to interfere with their efforts to enforce it. As in the case of the earlier regulations parents were found most difficult to deal with,[67] though opposition also came from various towns whose officials feared that certain families, lacking the income formerly derived from the labor of their children,

65. *Conn. Sch. Rpt.*, 1887, p. 56 ff.
66. *Ibid.*, p. 117.
67. *Ibid.*, pp. 117, 118.

would be brought upon the town as public charges.[68] But by a judicious use of the support which the agents could now command from the state's attorneys and the courts, the children were gradually drawn out of industry until in 1890 the employment of those under thirteen except in agriculture had practically ceased.[69] Further, the Secretary of the Board of Education reported that there was no evidence that the prevention of juvenile labor had stopped the machinery in any industry, raised the price of a single manufactured article, or caused more than occasional hardship anywhere.[70]

By this time the special agents who had been appointed to aid in enforcing the law of 1886 had been withdrawn, leaving Giles Potter with a single assistant to carry forward the work in the entire state. The regular routine involved the following kinds of activities:[71] examination of enumeration lists; examination of school records; visitation of schools; visitation of establishments employing children; visitation of families. That the work of the agents had assumed extensive proportions at the close of this decade is shown in the summary of their activities for the year 1888-1889, as follows:[72]

Towns visited[73]		52
Cases investigated		1976
Families visited		1329
Children absent from school with legal excuse		937
Lack of clothing	112	
Due to mental or physical disability	204	
At work legally	621	
Children illegally absent		598
Absence due to neglect	533	
Illegally at work	65	
Children sent to school		601
Parents prosecuted		32
Employers prosecuted		16

68. *Conn. Bureau of Labor Statistics,* 1886, p. xix.
69. *Conn. Sch. Rpt.,* 1890, p. 42.
70. *Ibid.*
71. *Ibid.,* 1889, p. 39.
72. *Ibid.,* 1890, p. 47.
73. Refers to the Connecticut town or township, which in many cases might have within its limits several villages and factory towns or a city.

Children sent to reform and industrial schools	16
Children sent to County Home	14

At this time the two conspicuously weak points in the Connecticut labor and attendance laws were the inadequate age and schooling certificate and the short period of compulsory attendance. In 1892 the Bureau of Labor Statistics undertook to ascertain by means of a questionary whether or not public opinion would support a still further advance in age and schooling requirements. Inquiries were sent to manufacturers, teachers, working men, and physicians. The Bureau concluded that sentiment favored an increase in the minimum term of schooling, if at the same time the age of employment was advanced to fourteen years. Conclusions were based largely on the opinions of manufacturers, physicians, and teachers, as very few working men replied to the inquiry.[74]

The Bureau had also undertaken to ascertain what proportion of the children entering school dropped out before the completion of the elementary course. Data gathered indicated that a very large number left the school without finishing the eighth grade, "rising in some schools, particularly those in manufacturing communities, to sixty, seventy, eighty, ninety, and even one hundred per cent."[75]

In 1893 and 1895 the compulsory school and attendance laws were extended and strengthened. In 1893 evening schools, already established in the larger centers, were made compulsory in all towns and school districts of 10,000 and upward,[76] and attendance upon them was required of all factory employees in such districts between fourteen and sixteen, and unable to read and write. In 1895 the requirements of the attendance and labor law were revised, substituting fourteen for thirteen, requiring that all children between eight and fourteen attend school for the full session, continuing until sixteen, if not regularly employed.[77] At the same time em-

74. *Rpt. Conn. Bureau of Labor Statistics,* 1892-93, pp. 192 ff.

75. *Ibid.,* 1894, p. 276.

76. *Acts,* 1893, ch. 227.

77. *Acts,* 1895, ch. 134. In 1919 it was provided that all working children between fourteen and sixteen, with schooling not equivalent to that required for the completion of the elementary grades, should attend evening schools, where established, for not less than eight hours a week for at least sixteen weeks each year. *Acts,* 1919, ch. 198.

ployment in any mechanical, mercantile, or manufacturing establishment under the age of fourteen was prohibited. Since full time attendance at school was now required of all children up to the minimum age for legal employment, the certificate of attendance was no longer necessary, but the age certificate became more important than before. The old, unsatisfactory form was continued, a statement signed by the town clerk, a teacher, or, if the signature of neither could be procured, by parent or guardian, certifying that the child had reached the age of fourteen years. The penalty for falsifying a certificate remained, as before, a fine of not to exceed sixty dollars.

Connecticut had now reached as high a standard in both age and schooling requirements as had been attained anywhere, leading the larger number of states in both respects. It remained for her to improve the details of the laws and their administration, to strengthen favorable public sentiment and to further improve her schools. Very decided progress had been made since the enactment of the law of 1886. At that time even the optimistic Secretary of the Board had felt certain that the friends of children had been over-ambitious and hasty. The field agents had suggested a compromise and public sentiment had declared the measure too drastic. Now, with public sentiment fairly well organized and back of the compelling measures these new regulations were accepted without protest. Indeed, there were some who held that the lower limit for employment might well be set at fifteen instead of fourteen.[78]

It is not to be understood that these laws were now self-enforcing. Local authorities very reluctantly gave their support to the state agents. It was often difficult, in case of violation persistent enough to demand prosecution, to induce a grand juror to sign a complaint against a fellow-townsman.[79] Many inconspicuous lines of industry were offering employment to children who had been effectively excluded from the larger mills and factories.[80] To meet this last situation the law was further amended in 1899, making it illegal to employ

78. *Rpt. Conn. Bu. of Lab. Stat.*, 1895, p. 15.

79. *Conn. Sch. Rpt.*, 1897, p. 40. Purely local administration of attendance and child labor laws has nowhere proven successful.

80. *Ibid.*, 1898, p. 39.

a child under fourteen years of age in any kind of labor during school hours.[81]

In Connecticut, as in other states, teachers had rendered little systematic service in enforcing the labor and attendance laws. In 1898 each teacher outside the towns employing superintendents was asked to report attendance every month to a certain agent, with such additional special reports as might be necessary. It was hoped that through this closer relationship to the state a feeling of responsibility for the good name of school and community might extend from the teacher to pupil and parent.[82] This was the beginning of a system later authorized by law, which has done much to secure general coöperation with the Educational Department throughout the state.

For many years the faulty age certificate had persisted, the weakest point in the compulsory laws. Town and school records were poorly kept and inadequate. Town clerks and teachers were not as a rule deeply concerned in securing authoritative data, and doubtless many children under fourteen received certificates qualifying them for factory employment. Besides, a child born outside the state and one who for any reason could not secure a certificate of age from the clerk or a teacher might present a parent's statement of age. These were notoriously unreliable, but the burden of proof fell upon the state, evidence was difficult to secure, and many children clearly under legal age continued to enter employment in defiance of the frequent visits of the state agents. In 1905 a measure was enacted which put a powerful weapon into the hands of local school committees and the Board of Education, one which is still employed to good effect. This law provides that whenever a town school committee, the school visitors, or the Board of Education determine that a child over fourteen and under sixteen has not had sufficient schooling to satisfy the spirit of the law, they may notify the parent and cause such child to attend school regularly.[83] The law, while not often invoked, enabled the agents

81. *Acts*, 1899, ch. 19.

82. *Conn. Sch. Rpt.*, 1899, p. 47.

83. *Acts*, 1905, ch. 36, amending ch. 20, *Acts* of 1903.

to counteract in part the flagrant weakness of the age certificate and to keep in school children who otherwise would have escaped even exposure to the means of education.

In 1911 and 1913 the final legal steps were taken which brought the Connecticut child labor law to the form in which, with unimportant changes, it is now operating. The law of 1911 provided for a more adequate certificate of age and education issued only under the authority of the State Board of Education under conditions to be described presently.[84] In 1913 those who had advocated vacation certificates won their point and a law was enacted providing that any child in good physical condition and between fourteen and sixteen years of age should, on personal application to the secretary or to an agent of the State Board of Education, be granted a temporary certificate permitting his employment during the summer vacation.[85]

The law of 1911 provides that no child under sixteen years of age shall be employed in any mechanical, mercantile, or manufacturing establishment unless the employer has first obtained a certificate signed by the secretary or an agent of the State Board of Education, or by a school officer designated by that board, showing that the child is over fourteen years of age, is able to read with facility, to write simple sentences legibly, to perform the operations of the fundamental rules of arithmetic in both whole numbers and fractions, and does not appear physically unfit for employment.[86]

These laws, together with the compulsory school laws, truant laws, and measures relating to hours of labor and dangerous occupations constitute the legal measures adopted by Connecticut for the protection of her children. In certain respects they are not ideal, failing to measure up to the legal standards found on the statute books of many other states. But the centralization in the hands of the State Board of Education of nearly all phases of their enforcement and administration has led to the development of a system of unusual efficiency. The State Board has interpreted the law broadly, including

84. *Acts*, 1911, ch. 119.
85. *Acts*, 1913, ch. 211.
86. *Acts*, 1911, ch. 119.

among "mechanical, mercantile, and manufacturing" activities practically every form of occupation; requiring employment certificates of all child laborers except newsboys and those engaged in agricultural and domestic pursuits.[87] The method of administering these laws is set out in some detail in the following pages.[88]

School Attendance. The law requires that every child between the ages of seven and sixteen shall attend a public day school for the entire session unless "receiving regularly thorough instruction during said hours and terms in the studies taught in the public schools." Children over fourteen years of age are not subject to this requirement if "lawfully employed at labor at home or elsewhere," except that in case the school visitors, town school committee, board of education of any town or district, or State Board of Education shall decide that a child between fourteen and sixteen years of age has not had sufficient schooling to warrant employment, he may be required to attend school until the desired conditions have been met or until he reaches his sixteenth birthday.

The machinery for enforcing attendance has developed gradually since the appointment of the first state agent in 1869. The force of the state board of education now consists of eight agents, two of whom are designated as attendance officers, devoting the major portion of their time to this specific work. All the agents are active in the enforcement of all phases of the law, however, and to that end all are really attendance officers. In the larger cities and towns local attendance officers are employed, who, aided by the teachers, follow up all children of school age not legally employed and reported out of school or irregular in attendance. Serious cases and those which cannot be located are reported to an agent of the State Board, who is ready to coöperate at all times. In districts and towns not maintaining attendance officers, teachers or other school

87. *U. S. Dpt. of Labor, Children's Bureau, Pub. No. 12, 1915, Ad. of Ch. Lab. Laws in Conn.*, p. 8.

88. Material for this section was collected largely from printed reports and forms of the Connecticut State Board of Education, and in personal conferences with state officials and local officials in the city of Hartford. The writer has also drawn freely upon the admirable study made for the Federal Children's Bureau by Miss Helen L. Sumner and Miss Ethel E. Hanks. *Bureau Publications*, No. 12, 1915.

officers report each month to the agent in charge of their district, listing all cases of non-attendance or irregularity. More frequent reports are made if occasion demands. All these cases are followed up by the agent and the children are usually returned to school unless they have left the state. Parochial schools are not required by law or by the ruling of the State Board to report absences to the attendance officers, but their registers must be open to the inspection of the state educational authorities.[89] These schools, the agents say, are, as a rule, coöperating with the compelling officers, thus making it exceedingly difficult for any child to disappear from the school system either as a truant or as an illegal employee in factory or shop.

It must not be supposed that every child of proper age is kept in school. "Public sentiment," writes one of the agents, "does not yet everywhere sustain literal enforcement of the attendance law. The belief that deprivation of schooling is an offense not only against the child but against the public welfare is not universal."[90] Yet patient and sympathetic efforts of teachers, supervisors, and state agents, together with steadily improving schools, are resulting in continued improvement in attendance.[91]

The School Census.[92] Closely connected with school attendance is the school census. With the highly organized machinery of the state board, one might expect in Connecticut a continuous school census with the resulting check upon all children of school age. Apparently no effort has been made to secure this modern aid to the enforcement of child labor and attendance laws. A school census is taken annually in September under the direction of the school committees of the various districts, the efficiency and accuracy of the work depending entirely upon local conditions. All persons over four and under sixteen years of age are supposed to be listed. The census, though taken primarily to afford a proper basis for

89. *Rev. Statutes,* 1902, par. 2104.
90. *Conn. Sch. Rpt.,* 1912-13, p. 11.
91. *Ibid.,* 1913-14, p. 30.
92. *Gen. Statutes,* revision of 1902, sec. 2252 and 2255, as amended by *Acts of 1913,* ch. 182.

the distribution of the school funds, is of great service to the compelling officers. Early in the school term the school records and the enumeration lists are compared and any discrepancies must be accounted for. The census brings to the attention of the proper officers the names of the children who have come into the state since the preceding enumeration, and who have not entered school. The law also directs that if the enumerators find children not attending school they shall ascertain the reason for non-attendance, and if such children are at work, they shall report the names of their employers or of the establishments where they are employed. Information thus gathered is of great assistance in enforcing both the attendance and the labor laws.

The investigation conducted by Miss Sumner and Miss Hanks reveals a varying degree of accuracy in conducting the school census. In certain places forms and methods have been devised which approach the accuracy of a continuous census; in others several hundred names appear to be omitted each year.[93] The State Board of Education finds the present census, imperfect though it is, of great assistance in bringing children into school, but why it has not vigorously demanded a continuous census, maintained under its own direction, is difficult to understand. At present there is no way to insure contact with children coming to the state during the year, after the annual enumeration. Nor is there assurance that children omitted in the unscientific enumeration may not be out of school and illegally employed. In a state which depends primarily upon a strict enforcement of school attendance as the safeguard against illegal employment, an adequate school census, amended from day to day, would appear to be indispensable.

The Employment Certificate.[94] Prior to 1911 an age certificate was required, but it might be secured from the town clerk or from any teacher of a school the applicant had attended, or in case such record were not available, the parent's statement was accepted. The brief laws of 1911 and 1913, broadly interpreted by the Board of Education, afford a foundation

93. *Children's Bureau, Publication No. 12,* p. 29.
94. *Acts,* 1911, ch. 119, 1913, ch. 211.

for an adequate employment certificate. Certificates are issued only at the central offices of the State Board of Education, at Hartford, or at an office of an agent of the board. They are issued in triplicate, one copy for the files of the state board, one for the employer, and one for the parent of the child. The employer's copy is usually sent him by mail, though in some cases it is carried to him by the child. On termination of employment the employer is not required to return the certificate, but both at the beginning and the termination of employment he must notify the state board on forms provided for the purpose and attached to his copy of the certificate.

When a child leaves employment he may take another place and work for one week on his parents' copy of the original certificate. Meanwhile, a new certificate must be secured. After a certificate has once been granted subsequent ones are issued either by the agent issuing the original, or by the state board, no further examination or formality being required.

The applicant for a certificate must appear in person at the main office or the office of an agent, accompanied by one of his parents or by his guardian. He must present an employment ticket or other written promise of work signed by the proposed employer, must offer evidence of the date of his birth, a doctor's certificate that he is physically fit to work, and must prove either by school record or examination that he meets the educational requirements.[95] The law requires merely evidence of age, the physical examination and proof of the proper educational acquirements. The state board has formulated the other requirements on the assumption that they are implied in the law.

The child labor law makes no specific requirement as to school attendance, but many of the towns, under authority of the act of 1905 have fixed a minimum leaving grade varying from the fifth to the seventh. In issuing working papers the agent may either give an examination in the required subjects, reading, writing, and arithmetic, or accept the leaving certificate of the local school authorities. No child is given a certificate of employment, however, unless he meets the leaving

95. *Acts*, 1919, ch. 264. Requires examination by a physician designated by the State Board of Education.

requirements, where a minimum has been determined, of the town in which he resides.

Prior to 1919 no physical examination was required, though the law gave abundant authority to the representatives of the State Board of Education and to other school officials to send the applicant to any reputable physician for such examination, charging the expense against the state. Only when, in the judgment of the agent, there was doubt as to the physical fitness of an applicant was an examination demanded, but if a child found at work appeared to be in poor health he might be sent by the inspecting officer to a physician and excluded from employment until pronounced fit to resume labor.

Acting under the very general provisions of the law the State Board of Education has worked out a reasonably adequate method of determining whether or not the applicant for working papers is of legal age. In case documentary evidence of age is not available, however, the affidavit of parent or guardian is accepted.

Enforcement of the Labor and Attendance Laws. Notwithstanding the large degree of unity prevailing in Connecticut in the administration of laws controlling the labor and schooling of children there are two separate sets of inspectors, one enforcing the laws regulating hours of labor, character of employment and the like, the other looking after all phases relating to age, health, school attendance and working papers, the former representing the department of factory inspection, the latter, the State Board of Education. For the purposes of this study little attention need be given to the duties of the factory inspectors. These officials are chiefly concerned with the material conditions under which labor is employed in factories and mercantile establishments throughout the state.[96] In practice there is, apparently, rather close coöperation between the two sets of inspectors.

The regular agents of the State Board of Education[97] per-

96. Of 1269 orders given by the factory inspectors in a single year, but 14 referred directly to children, these having reference to the employment of minors under sixteen in unsuitable occupations. *Rpt. State Factory Inspector,* 1914, pp. 44-68.

97. Additional agents are employed from time to time, when it seems necessary to make an intensive canvass of the state or of any particular district.

form a great variety of duties. They must maintain regular office hours, usually in several different towns or cities, for the purpose of issuing employment certificates; they hold monthly meetings at the capital in order to compare notes and determine policies; they visit as frequently as possible the seven thousand establishments where children are employed; they stimulate school attendance, follow up questionable cases, confer with parents and teachers, assist local attendance officers, and attend to a vast amount of routine business in connection with records and reports. They do not have the power to prosecute for violation of the laws but can only report to the state's attorney for the district, who alone has authority to bring action. Inability to hale an offender into court does not necessarily handicap the agents of the board. The spirit of their work, established long ago by Henry M. Cleveland and Giles Potter, is that of friendly, sympathetic coöperation with children, parents, and employers, rather than that of compulsion. Something of this spirit might be lost were the agents to be vested with power to bring legal action.[98]

The Unemployed Child. Theoretically, the child under sixteen years of age returns to school immediately on termination of employment unless he secures another place, in which case he has a week in which to obtain a new certificate.[99] In practice, the child who has once been granted regular working papers is extremely unlikely ever to return to school. Usually the child who leaves the regular day school for employment does not wish to return and will do so only under compulsion. The administrative machinery is not so closely adjusted even in Connecticut, but that there may be a considerable lapse of time between the termination of employment and action on the part of the compelling officer. Further, the schools, as now organized, have little to offer to the child who has once lost step, nor are teachers anxious to receive him in their nicely graded classes.

At present the state does little for the certificated child out

98. In the school year 1919-1920, twenty-three employers and eighty-four parents were fined for the violation of laws relating to the employment and schooling of children.

99. He may work for one week on the parents' copy of the original certificate.

of a job. His educational problem is not likely to be solved until Connecticut provides for a system of compulsory continuation schools for working children, with special all-day classes for those temporarily out of employment.[100]

Miss Sumner and Miss Hanks conclude: "The strongest single feature of the Connecticut system and, indeed, the source of most of its other strong features, seems to be the centralization of control over the entire procedure relating to certificates throughout the state in the hands of the State Board of Education."[101] This statement may be accepted without reservation. Here there is the most practical recognition of the close relationship of compulsory school attendance and the control of child employment to be found in the Union. While the statutes leave much to be desired, they are so interpreted and administered by the board of education as to place the state well to the fore in the control and supervision of working children. With the establishment of suitable compulsory continuation education the conditions could easily be made most admirable. It would seem that other states might well profit by this example of centralized authority with accompanying efficiency in administration.

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100. The required attendance upon evening classes as provided in the law of 1919 can, in no adequate way, meet the educational needs.

101. *Children's Bureau,* Pub. No. 12, p. 51.

CHAPTER VI

NEW YORK

The first compulsory education law in the state of New York was a special measure enacted in 1831 requiring that all children between five and sixteen years of age detained in county poor-houses "be taught and educated in the same manner as children are now taught in the common schools of this state, at least one-fourth part of the time said paupers shall remain in said poor-houses."[1] In order to meet the requirements of this law schools were established within the poor-houses themselves. They were, as might be expected, of inferior grade, yet were maintained for many years, affording the sole means of instruction to thousands of children.[2]

The first task of those interested in universal education in this state was to secure legislation requiring the establishment and support of public schools by local communities throughout the commonwealth. It was not until 1848 that such legislation was enacted,[3] and even then great difficulty was experienced in enforcing its requirements; indeed, the rural communities, by a decided majority voted in 1850 to abandon the newly established system, and it was only by the dominating influence of the cities that the law was retained. It was not possible to make the system entirely free and universal throughout the state until 1867.[4]

The earlier attitude towards the labor of young children was maintained more persistently in New York than in any other northern state. In 1830 a prominent newspaper ex-

1. *Laws of New York*, 1831, ch. 277.

2. As late as 1875, 2,795 children were enrolled in these poor-house schools — *Senate Documents*, 1875, 52, p. 7. In this year it was made unlawful to commit children between three and sixteen years of age to the public poor-houses (*Laws of 1875*, ch. 173), yet the schools persisted for some time, there being in 1889 608 children receiving instruction in the institutions.— *Senate Documents*, 1889, No. 40.

3. *Laws of 1849*, ch. 140.

4. *Laws of 1867*, ch. 406.

pressed what was probably a generally accepted opinion in saying:

"The trades and handicrafts generally must be continued; a full apprenticeship must be served; and with these necessities of society a full, liberal education for the artisans and laboring youth would be incompatible. The thriving master-mechanics might, as they can now do, place their children on a level with the wealthy, in point of education; but they must ever employ boys and men comparatively uneducated, or their business would be at an end."[5]

But, as in Pennsylvania and Massachusetts, working men were not willing to live under the limitations which the more aristocratic social groups had laid upon them, as is evidenced in the long and bitter fight they waged for shorter hours of labor and for free schools. Outside their ranks, however, the idea of anything like equal educational opportunity for the children of the poor and the rich was very remote.[6] The influence of labor was sufficient to secure in 1830 the appointment of a legislative committee to inquire into the state system of apprenticeship. This committee made a superficial study of the conditions of labor in some of the larger factories. It was found that young children were at work in crowded rooms, poorly ventilated, and at labor excessively severe. The report indicates that child labor had already reached a stage which might have aroused grave concern had there been sufficient agitation. But this was a period when it was not safe to offend employers of labor lest they remove their industries to a more liberal state. ..The committee, therefore, hastened to take the edge from their criticism by extolling the virtues of the manufacturers to whom they referred as "those patriotic men, who, in the pursuit of wealth in a laudable business, have voluntarily established such regulations to insure, so far as practicable to the children and youth under their care and in their

5. *New York Morning Herald*, Aug. 25, 1830; quoted in *Doc. Hist. Am. Indust. Soc.*, Vol. V, pp. 113-114.

6. The effect of this attitude towards the children of the working classes and the long continued system of charitable or semi-charitable education may yet be seen. It is not difficult, in certain parts of the state, to find people, even among those of only moderate means, who regard the public school as a semi-charitable organization, and who, at considerable sacrifice, educate their children in private institutions.

employ, habits of industry, skill in an art or trade, decency of person and deportment, comfort, health, a moral, religious and business education—beautifully illustrating in their little communities the inestimable value of moral worth.''[7] Again in 1836 a half-hearted attempt was made to provide some educational opportunities for factory children, but the methods by which the agitators were quieted and legislative action blocked would indicate that already those who were profiting by unrestricted child labor were well organized in the Assembly.[8] It is clear, however, that the dangers of the situation were beginning to be realized at this time. The Secretary of State, in his capacity as superintendent of common schools, frequently called attention to the fact that many young children were employed in the factories of the state and very guardedly suggested relief through some form of compulsory education, saying, in one instance, that parents, disregarding the obligations resting upon them, "ought to be visited with such disabilities as will induce them, from interest if not from principle, to cause the child to be instructed at least in reading, writing, and arithmetic.''[9]

That child labor was recognized as a real problem by the time the establishment of public schools throughout the state had been made compulsory upon communities is clearly set out in other reports of the superintendent.[10] Meanwhile, the working men in seeking to gain the ten-hour day, were advocating a limit to the employment of children. Through their influence a bill was introduced in 1849 providing for the exclusion from factories, furnaces and workshops of children under six years of age, while those under twelve were not to be employed in such establishments *without their consent* for more than eight hours in any one day. An unsuccessful attempt was made to attach a schooling clause to this bill, but without such provision it finally passed the House, only to

7. *Assembly Documents,* 1832, No. 308, p. 176. See also *Woman and Child Wage-Earners in U. S.,* Vol. VI, p. 104.

8. *Assembly Documents,* 1836, No. 233, p. 4; *Woman and Child Wage-Earners in U. S., op. cit.,* p. 107.

9. *Rpt. Supt. Com. Schs.,* 1832, p. 23.

10. For example, 1849, p. 20; 1852, p. 23.

die in committee in the Senate.[11] Apparently labor and educational interests were unable alone to secure favorable consideration at the hands of the Assembly, but in 1853 philanthropic organizations in the state made a special plea for legislation to check truancy. The governor, in his annual message, supported the movement and a legislative committee was appointed to consider the matter. This committee, in its report, advocated in more definite terms than had hitherto been employed, a mild form of compulsory school attendance, concluding with:

"If the parent, guardian, or master of the child is intemperate, incompetent, or indifferent, the law should take their place, and see that the child is properly trained. If they are avaricious, and desire to speculate for gain out of the tender bone and sinews of the child, to the entire neglect of its mental and moral culture, and the debasement of its character, the strong hand of the law should restrain that avarice and enforce the child's just rights."[12]

This report was followed by the well known truancy law of 1853,[13] the chief provisions of which are as follows:

1. Children between the ages of five and fourteen found wandering in the streets or lanes of any city or incorporated village, idle and truant, without any lawful occupation, might be restrained from wandering about and might be required to remain upon the premises of parent or guardian, or caused to engage in some lawful occupation, and might be required to attend school for at least four months each year until fourteen years of age.
2. The court was given power to require the parent or guardian to enter into a written agreement to fulfill these obligations, giving security for the same.
3. If, within a reasonable time the parent or guardian failed to meet the requirements of the law, the child might be put under the charge of the overseers of the poor, set at work by them, and given instruction in the elementary branches, or he might be bound out by them as an apprentice.
4. In case the parent or guardian entered into a written agreement to care for the child according to the terms of the law and it was found that he "habitually and intentionally"

11. *Senate Journal*, 1849, p. 453.
12. *Assembly Documents*, 1853, No. 94, p. 2.
13. *Laws of 1853*, ch. 185.

violated that agreement, an action might be brought against him and penalty recovered to the extent of fifty dollars and costs.

This measure in no respect met the evils of child labor; rather, it encouraged the employment of the young children of the poor. It shows little advance over the English poor law of the Elizabethan period in its conception of the rights of childhood, yet it was not repugnant to the public opinion of the time, accustomed to accept the education of the children of the poor as a worthy form of public charity.[14] But a progressive element was beginning to recognize the inconsistency of an educational system which, in a state whose existence was dependent upon a free and intelligent citizenship, deliberately pauperized the children of those who could not pay the rates still almost universally required, and as an alternative sent them, without schooling, into the mills and factories as operatives. Governor Myron G. Clark, who was committed to the free-school program, pointed out in one of his annual messages to the legislature the defects of the school law which provided that those unable to pay the assessed rates should be relieved at public expense, thus becoming "the recipients of public charity." "The worst features of the old law have been preserved," he said. "Education is still regarded as a matter of charity and not a right."[15]

The law of 1853, unsupported by any general attendance or child labor provisions, and with inadequate means of enforcement, was of little value beyond its slight service in pointing the way to later advancement.[16] There was no further legislation of this nature for a period of twenty-one years, when, in 1874 the first general compulsory school attendance law of the state was enacted. Following the Civil War labor interests had again become active and had renewed the long interrupted agitation for the restriction of child labor. The claims of adult labor had, however, been placed first, and it was not un-

14. *Assembly Documents*, 1855, No. 3, p. 13.

15. *Ibid.*, p. 14.

16. Charles E. Fitch, in his "History of the Common School in New York," speaking of this law says, "It was, however, enforced spasmodically and irrationally, if it may be said that it was enforced at all." *Rpt. N. Y. Supt. Pub. Inst.*, 1904, p. 95.

til 1871 when those interested in the Children's Aid Society of New York City turned their attention to legislation, that a definite program in behalf of the child was undertaken. In that year a bill looking to the relief of factory children was introduced, but, due to the strong opposition of merchants and manufacturers, it was successfully resisted in that and succeeding legislatures until 1874, when the friends of this movement and the advocates of compulsory school attendance joined forces and secured the passage of a measure intended to insure an elementary education for every child in the state.[17]

The law of 1874[18] provided:

1. That those having control of children between eight and fourteen years of age, of proper mental and physical capacity, should cause them to attend some public or private school for at least fourteen weeks each year, unless regularly taught at home in the common school branches for a like period.
2. That no child under fourteen was to be employed in any business whatever unless, during the preceding year, he had received instruction as required by law.
3. That a child on going to work should deliver to the employer a certificate of schooling signed by a teacher or a school trustee, this to be preserved by the employer and exhibited on demand of the proper examining officer.
4. That the school trustees should, in September and February of each year, "examine into the situation of the children employed in all manufacturing establishments in their school districts," and report all violations to the chief fiscal officer of the city or the supervisor of the town, whose duty it was to bring action for the recovery of the fixed penalty, one dollar for the first offense, five dollars for each week thereafter, for a period not exceeding thirteen weeks.
5. That text-books should be furnished by the district if the parent or guardian was unable to provide them, and so stated in writing.
6. That children should be dealt with as habitual truants in case parents were unable to induce them to attend school.

This law might have been enforced had school trustees and others entrusted with its administration set themselves resolutely to the task. Experience in many states has shown, however, that no such general compulsory law has even functioned

17. Fairchild, *Fac. Leg. of N. Y.*, p. 32.
18. *Laws of New York*, 1874, ch. 421.

further than to register public opinion. This measure was no more effectual than others of its type. After a full decade of trial, the proportion of children attending school was actually less than before its enactment.[19] Superintendent Andrew S. Draper writes of the law:

"It may as well be said, not only that the 'compulsory education act' has not been effectual, but that it is altogether doubtful if, in its present shape, it is capable of being made so.[20] . . . Moreover," the Superintendent adds, "the schools are full. In most of the cities the accommodations are taxed to the utmost. Any effectual execution of the law would at once create the necessity for additional buildings in every city of the state."[21]

The law of 1874, like that of 1853, must be regarded as merely marking an historical step in the development of educational ideals in the state. It apparently never commanded any degree of respect, either on the part of those whom it was intended to control or on the part of those whose duty it was to enforce its provisions. It did not even serve as a foundation for later legislation. Indeed, the probability is that the presence of this law upon the statute books operated in a direction quite opposite from that which was intended. It served to quiet, for a time, those who were most concerned in the welfare of working children, giving legal assurance that at last the state was in position not only to offer educational advantages to all, but to insist that parents unwilling to permit their children to accept the state's offer be compelled to do so. Twenty years after its enactment, the highest educational officer in the state condemns it by saying, "It has failed to accomplish anything except to subject itself to ridicule."[22]

Meanwhile, with the rapid development of manufacturing, the evils of child labor were increasing. Manufacturers were unwilling to permit the public to be informed as to the conditions under which children were employed in their establishments. An authoritative investigation was attempted by the Commissioner of Labor Statistics in 1884, following a request

19. *Rpt. Spt. Pub. Inst.*, 1887, p. 5.
20. *Ibid.*, p. 6.
21. *Ibid.*
22. *Rpt. Spt. Pub. Inst.*, 1893, p. 26.

to that effect made by the State Trades Assembly.[23] The Commissioner undertook the desired investigation in the belief that the law gave him authority to compel unwilling employers to answer questions and to submit to visitation, but a ruling of the Attorney General to the effect that he could not "safely undertake to compel owners or proprietors of manufacturing establishments to open them to his personal examination and visitation" limited the value of the study undertaken.[24] In carrying out the investigation, the questionary method was employed, information being obtained from 151 establishments. The returns showed 267 children under fourteen years of age, 20 being under twelve, employed in the factories visited.[25] Since the United States census of 1880 showed that there were in New York State 42,000 manufacturing establishments,[26] the actual situation in 1884, if the institutions investigated were fairly representative of the remainder, was truly appalling. There must have been not far from 75,000 children less than fourteen years of age regularly employed in manufacturing industries, more than 5,000 of them being less than twelve years of age, and about 1,600 less than eleven. No great reliance can be placed on this estimate, but the situation was clearly serious. Certain other states were protecting their children by laws that now had come to have some virility. Public sentiment in New York was demanding equal advantages, both in labor restrictions and in educational opportunities. The forces interested primarily in industrial conditions and the directors of public education were coming to recognize the close relationship of the causes they represented. Yet it was a third force, philanthropy, rather than organized labor or education, that took the initiative in the campaign for legislation. To Elbridge T. Gerry more than any other single individual must be given credit for the law of 1886, which formed the basis of New York's effective system for the protection of working children. In 1882, as President of the New York Society for the Prevention of Cruelty to Children, he,

23. *Rpt. Bu. Stat. of Lab.*, 1884, p. 9.
24. *Ibid.*, p. 20.
25. *Ibid.*, table, pp. 22-25.
26. *Ibid*, p. 10.

together with Dr. Abraham Jacobi, President of the New York State Medical Society, drafted a child labor bill which passed the Senate, but was assigned a place on the calander of the House too late to reach a hearing before adjournment.[27] The next year the bill was again brought forward, but by this time those financially interested in the employment of children had taken warning and were able to offer bitter and successful opposition. In 1884 the Workmen's Assembly joined in the movement. The statistics presented by the Commissioner of Labor were used effectively, and Gerry's bill seemed about to pass. Here, however, the opponents of the measure adopted an expedient which later became a favorite device in removing the sting from threatening legislation. In the House, the manufacturing interests succeeded in introducing a worthless substitute for the Gerry bill which had passed the Senate, and to prevent its enactment into law the friends of the original measure were obliged to kill it when it reached the Senate.[28] The tactics of the manufacturers served to unify the advocates of protective legislation. Governor David B. Hill became interested and promised his support to the Gerry bill. In his message to the legislature in 1886 he called attention to the efforts that had been made in preceding sessions to "protect children of tender years from the demands of selfish and often cruel and exacting taskmasters," saying that it was most desirable that an act be passed regulating the labor of all minors and prohibiting the employment of those under fourteen.[29] Backed by the Governor of the state and by an aroused public opinion, a bill practically the same as the original measure of previous campaigns was introduced, and after a hard fight with the manufacturing interests represented by strong lobbies at Albany, it became a law, though not until some concessions had been made and some highly desirable features given up.[30] The chief provisions of this law[31] were as follows:

1. No minor under eighteen and no woman under twenty-

27. Fairchild, *op. cit.*, p. 40.
28. *Ibid.*, p. 43.
29. *Assembly Documents*, 1886, No. 2, p. 19.
30. Fairchild, *op. cit.*, p. 45.
31. *Laws of 1886*, ch. 409.

one was to be employed more than sixty hours in one week, except in making necessary repairs.

2. The employment in factories of all children under thirteen was forbidden; employers were required to keep a register of all under sixteen, and to have on file a certificate showing age and birthplace of each child between thirteen and sixteen, such data being verified by parent, or guardian, or by the child himself.

3. The penalty for "knowingly" employing a child in violation of the law was a fine of not less than fifty nor more than one hundred dollars, or imprisonment for not less than thirty days.

4. To aid in the enforcement of the law, provision was made for the appointment by the governor of a factory inspector and one assistant inspector having power to visit and inspect manufacturing establishments.[32]

The provisions of the law of 1886 were entirely inadequate to met the existing evils of child labor. It carried no educational requirements, though the impotence of the compulsory attendance law was universally recognized. The mere statement of parent or child as to age might be accepted, and at most this was supported only by affidavit, a kind of evidence already discredited in Massachusetts and elsewhere. Then, too, the task set the factory inspector and his single assistant, with 42,000 manufacturing establishments listed in the state, many of them employing children, was not a simple one.[33] But a beginning had been made, and on this measure was to be built an enforceable system.[34] The first notable advance was made in 1889,[35] raising the age limit from thirteen to fourteen, requiring, also, that no child under sixteen might be employed in a factory unless able to read and write simple sentences in English, and authorizing inspectors to require a child to pro-

32. The factory inspector was required to report annually to the bureau of labor statistics. The following year it was provided that reports be made directly to the legislature. *Laws of 1887,* ch. 462. In 1901, the bureau of labor statistics, factory inspection, and the board of mediation and arbitration were consolidated in the Department of Labor. *Laws of 1901,* ch. 9.

33. Under the law of 1886, no establishment was regarded as a factory unless at least five persons were employed therein.

34. Fairchild notes that up to 1904, the child labor law was amended, on the average, every other year. In the following decade there were more than twenty amendments and laws for the regulation of the employment of minors.

35. *Laws of New York,* ch. 560.

cure a physician's certificate in case he appeared unfit to perform the labor in which he was engaged. The amendment also defined a factory as "any place where goods or products are manufactured, repaired, cleaned, or sorted, in whole or in part," thus removing an element of indefiniteness behind which violators had been able to hide; but, as in the original law, no establishment employing fewer than five persons was included in the definition. Three years later the provisions of the law were made to apply to any mill, factory, or workshop where one or more persons were employed.[36]

The most conspicuous weakness in the New York child labor law, persisting until its revision in 1903, was its failure to reach parents who were willing to misrepresent the age of their children in order to secure employment certificates. If a child could read and write the most elementary sentences in English, working papers could always be secured by a formal oath before a notary. As in other states relying upon this method of establishing the age of applicants, perjury was common. The inspectors were morally certain that large numbers of under-age children were at work in factories, but as they were usually carefully drilled to sustain, when questioned, the sworn statements of their parents, evidence of perjury was difficult to obtain.[37] It was believed that the situation might be relieved by entrusting the issuance of employment certificates to the local health authorities. These officials were in possession of such vital statistics as were available, data later discovered to be incomplete and of little value, and it was hoped that they would be able to check the unlawful employment of children. Accordingly, in 1896, an important amendment[38] laid upon the boards of health full responsibility for issuing all working papers, the certificate to include the date and place of the child's birth, his description, and a statement that the board of health had satisfied itself that the child was at least fourteen years of age and was physically fit for the work he intended to do. A school attendance clause in harmony with the requirements of the compulsory education law was

36. *Laws of 1892*, ch. 673.
37. *Rpt. N. Y. Fact. Insp.*, 1886, p. 117.
38. *Laws of 1896*, ch. 991.

included in this measure, a certificate from the school authorities being acceptable as evidence of attendance, but the board of health was expected to satisfy itself by examination that the applicant was able to read and write.[39]

At this session of the legislature a law was enacted seeking to regulate the employment of children in mercantile establishments, and its enforcement, singularly enough, was laid upon the boards of health. Social workers had long known that grave abuses existed in some of the large department stores in the cities, but all efforts to correct them had been unsuccessful. In 1895 a resolution was presented to the Assembly asking for an investigation on the grounds that 100,000 women in New York City, many of them with families to support, were working for sixty cents per day. In accordance with the terms of the resolution a committee was created and directed to inquire into the situation and report. The work of this committee, headed by the Honorable P. W. Reinhardt, Jr., did much to arouse public opinion and to make possible the legislation that followed its report. A more complete study of the conditions under which women and children were employed than had hitherto been attempted in this state was undertaken. Many public hearings were held, more than two hundred and fifty witnesses were examined, and extended personal investigations were conducted. The report of this committee is eloquent testimony to the inadequacy of both child labor and compulsory education laws thus far enacted. Many young children were found to be employed contrary to law, particularly in the garment trades. "These children were undersized, poorly clad, and dolefully ignorant, unacquainted with the simplest rudiments of a common school education, having no knowledge of the simplest figures and unable in many cases to write their own names in the native or any other language."[40] The committee characterized child labor as one of the most extensive evils existing in the city, "a constant and grave menace to the welfare of its people." The employ-

39. Still a legal requirement, but probably never seriously undertaken, outside the largest cities.— *Employment Certificate System in New York, Children's Bureau* Pub. No. 17, p. 60.

40. *Rpt. Reinhardt Com.*, p. 3.

ment certificate it regarded as worthless. Parents either had no regard for the oath or were too ignorant to understand its nature. It was found, also, that certain notaries were making a regular practice of taking the affidavits of children clearly under the legal age, often charging for such service double the legal fee.[41] Those who were interested in the welfare of New York children had been aware that conditions were far from ideal, but probably few had realized the seriousness of the situation. Legislation could no longer be avoided, though the forces that had for years successfully resisted adequate control were strong enough to secure such modification of the measures proposed as to render them relatively ineffective. The steps taken to strengthen the employment certificate have already been mentioned.[42] More important than this amendment, at least in principle, was the mercantile law,[43] the provisions of which were:

1. No male under sixteen and no female under twenty-one was to be employed in any place where goods, wares, or merchandise was offered for sale, for more than sixty hours per week, nor more than ten hours per day, except for the purpose of shortening one working day in the week.
2. Work before seven in the morning and after ten at night was forbidden.
3. It was provided that the law should not be so interpreted as to prevent the employment of any person on any Saturday of the year, and that none of the restrictive provisions should apply during the latter half of December of each year.
4. Of all children under sixteen, age and school attendance certificates were required, these to be issued by the local health authorities as in case of children employed in factories.
5. The employment of children under fourteen was forbidden, except in vacation, when those twelve years of age, if able to read and write simple sentences in English, might secure the necessary papers.
6. The penalty for violation was not less than twenty nor more than one hundred dollars for the first offense, between forty and two hundred dollars or imprisonment for not over sixty days for the second offense, and for succeeding violations a larger fine or a longer jail sentence or both fine and im-

41. *Ibid.*, p. 6.
42. *Supra*, p. 125.
43. *Laws of 1896*, ch. 384.

prisonment were provided.

7. It was made the duty of the health authorities to enforce the measure. Unless prosecution was begun within thirty days after the alleged violation of the law, there was no case.

The method of enforcement of the mercantile law was in itself sufficient to insure the defeat of its purposes. Not only were local boards of health to issue working papers to children under sixteen, as in the case of employment in factories, but they were given entire responsibility for the enforcement of the measure. The boards were neither prepared to take over this additional duty, lying almost wholly outside the range of their normal activities, nor could they be expected to develop any real interest in the matter. As a natural consequence, enforcement, as will appear later, was a mere farce until transferred in 1908 to the Department of Labor.[44]

Meanwhile, notable progress was made in school legislation. State Superintendent Andrew S. Draper believed that the time had come to bring New York into line with the movement, now national in scope, towards enforceable compulsory attendance laws. Of the old measure of 1874 nothing could be expected. It depended wholly upon local public sentiment for its validity, and experience had shown that such sentiment was not infrequently adverse to its enforcement.[45] Clearly a stronger measure was necessary. At the request of Dr. Draper, Superintendent Sherman Williams, of the Glens Falls, New York, schools, investigated the subject of compulsory school attendance in the state. He found conditions extremely unsatisfactory, and in his report submitted on December second, 1887, he urged decisive action.[46] A bill was drawn up embodying his recommendations, and in 1889 it was passed by the legislature, only to meet the disapproval of Governor David B. Hill, largely because of his objections to certain provisions regarding a state school for incorrigibles.[47] The bill had been opposed, also, by those interested in parochial schools. It had originally provided that teachers in such schools should take

44. *Laws of 1908*, ch. 520.

45. *Rpt. Supt. Pub. Inst.*, 1904, p. 96.

46. *Ibid.*

47. *Ibid.*, 1890, appendix, p. 143.

the regular examinations as required of those who taught in the public schools. This was sufficient to gain the hostility of a certain element, who feared that the bill threatened to interfere with schools under church and private control.[48] The Governor was not opposed to the principle of compulsory education, and in 1892 he urged the passage of a "carefully guarded" law. The public school superintendents, the State Teachers' Association, and the forces backing the child labor law aligned themselves with the movement,[49] and in 1894, just twenty years after the first so-called compulsory attendance law was passed, the second measure was enacted. This second law was not permitted to lie unused upon the statute books, but its enforcement was undertaken to such effect that after fourteen years of operation, strengthened meantime by various amendments, the state superintendent could describe it as "by far the best law upon this subject to be found in any of the states."[50]

The essential features of the law of 1894 were:

1. All children between eight and twelve years of age were to attend some school for the full session.
2. Those between twelve and sixteen were to attend for the entire session unless regularly employed.
3. Those between twelve and fourteen were to attend for at least eighty days.
4. It was made a misdemeanor to employ a child between eight and twelve years of age during any part of the school session, or to employ one between twelve and fourteen unless he presented a certificate signed by the superintendent of schools or by some other properly designated officer.
5. Parents or guardians were required to keep their children in school, subject to a penalty of not more than five dollars for the first offense, and not more than fifty dollars or not to exceed thirty days in jail, or both fine and imprisonment for each subsequent offense, but the penalty did not apply if those in charge of children notified the school authorities of their inability to cause them to attend.
6. The appointment of local truant officers was made obligatory except in the rural communities.

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48. *Ibid.*, p. 147. Note antagonisms of parochial and private schools at this time to the Bennet Law in Wisconsin, *seq.*, pp. 212f.

49. *Ibid.*, 1893, appendix, p. 139.

50. *Rpt. N. Y. Ed. Dept.*, 1908, p. 7.

7. The state superintendent was given authority to withhold one-half the public school funds from any district failing to carry out the provisions of the law. He was also authorized to appoint an assistant to inquire into the extent to which the compulsory measure was enforced.

It is readily seen that the close relationship which should exist between compulsory school attendance and compulsory exclusion from labor was not fully appreciated by those responsible for this legislation. An easy method was left, also, for parents to escape responsibility for the attendance of their children. But vigorous enforcement was now possible, due in part to a better public attitude, in part to a degree, however slight, of central authority. Apparently some 20,000 children were brought into school almost at once,[51] this number not including any illegally at work, but representing those who had been out of school because of truancy or through the neglect of parents.[52]

Within a year the process of strengthening the law by amendment was begun. In 1895 it was made the duty of the State Superintendent of Public Instruction to cause a census to be taken biennially in all cities of 10,000 population and upward. Provision was made for gathering such data as would give definite information as to the number of children in school, as well as the number absent without good cause or employed. Provision was also made for two additional attendance officers or assistants who, representing the department of public instruction, were to spend their time among the schools investigating the extent to which the attendance law was enforced.[53] These assistants, after visiting most of the cities in the state, reported that with one or two exceptions, the law was being "vigorously enforced, with the exercise of good judgment and discretion."[54] Apparently these state officials and the local truant officers gave no attention to children who were illegally employed, seeking only to return to school the idlers of compulsory attendance age.[55] Experience revealed weaknesses in

51. *Rpt. Supt. Pub. Inst.*, 1896, p. 1046.
52. *Ibid.*, p. 1048.
53. *Laws of 1895*, ch. 550.
54. *Rpt. Supt. Pub. Inst.*, 1896, p. 1045.
55. *Ibid.*, p. 1048.

the law and the Superintendent of Public Instruction began to urge further amendments, recommending that the biennial census be extended to the entire state, that attendance officers be required in the common school districts, and that parents claiming exemption from the penalty of the law on the grounds of inability to cause their children to attend school be required to present adequate proof of the truth of their contention. In 1896 the second and third recommendations were embodied in the law.

The year 1903 was an important one in the history of children's legislation in New York. Educational and labor laws were strengthened and brought into harmony, and new forces began to manifest themselves in greater publicity and in campaigns of education. The laws up to this time had been recognized as inadequate, and in some of their provisions exceedingly difficult of enforcement. The mercantile law had not been regarded seriously, and it had remained largely inoperative. Yet the preceding decade had been far from unfruitful; not only had legislative standards been advanced against sharp opposition, but significant results had been achieved in enforcement. More than 130,000 children had been brought into school, 74,911 truants had been arrested by truant officers, and 2206 persons in parental relations had been prosecuted for neglect of their duty.[56] Just what proportion of these prosecutions had resulted in convictions the published reports of the superintendent do not indicate. It appears that the general practice was to impose a small fine, then suspend execution of the sentence, the parent agreeing to comply with the law.[57] Employers violating the labor laws were still treated very tenderly by inspectors and prosecuting officers, as evidenced by the record of the last three years of this decade:[58]

	1901	1902	1903
Violations of the child labor laws	33,766	49,538	50,572
Convictions	70	7	39
Fines	$2,010	$215	$1,060

56. *Rpt. Supt. Pub. Inst.*, 1904, pp. 24f.

57. *Ibid.*, 1896, p. 1051.

58. *Rpt. N. Y. Child Lab. Com. to Gov. Higgins*, 1905, p. 19. *Rpt. N. Y. Dpt. of Labor*, 1902, Vol. I, pp. 1, 16, III, 10.

It has been observed that no really effective legislation in behalf of working children was possible until organized labor was able to enlist the support of political parties.[59] It might as truly be said that political forces reach an early limit in their usefulness in the administration of the laws they enact. Philanthropic agencies had been an important factor in securing the protective legislation thus far written into the statutes, but they had not been particularly successful in stimulating civic forces to discharge their administrative duties effectively. There was a painful lack of organization which had enabled vested interests not only to secure the introduction of unenforceable provisions in the proposed bills, but to render administration difficult through cumbersome or unusual methods. But the decade opening with 1903 was to witness a decided change in organization. Laws "with teeth in them" were to be enacted, enforcement was to be stimulated, and employers themselves were to become, to an appreciable extent, supporters of the very principles they had so long successfully opposed. In this new program, the New York Child Labor Committee, established in 1902, was the organizing and directing force. The committee was created in response to a very definite need. In the summer of 1902 a sub-committee of the Neighborhood Workers' Association of New York City undertook an inquiry into the condition of child workers in the city, employing Miss Helen Marot for the purpose. The situation, apparently not much improved since the Reinhardt report in 1896, seemed to warrant a vigorous campaign for legislation; a permanent child labor committee was formed and a paid secretary, Mr. Fred S. Hall, employed.[60] The ensuing cam-

59. Fairchild, *Fac. Leg. in N. Y.*, p. 29.

60. This organization has proved such an effective educational agency, such a potent factor in securing legislation and in encouraging its enforcement, that a statement of its aims as set out in its certificate of incorporation is presented, as follows:

1. To investigate and report the facts concerning child labor in the state of New York.
2. To raise the standard of parental responsibility with respect to the employment of children.
3. To assist in protecting children by suitable legislation against premature or otherwise injurious employment, and thus to aid in securing for them an opportunity for elementary education and physical development sufficient for the demands of citizenship and the requirements of industrial efficiency.

paign, directed by Mr. Hall and Mr. Robert Hunter, chairman of the committee, and participated in by some of the best informed and most experienced child-welfare workers in the United States, was so successful as to give New York unquestioned leadership for a time in legislation for the protection of children. Since the day it entered the field, the Child Labor Committee has remained not only a leader in the constant fight for new and steadily advancing legislation, but it has assisted in securing more efficient officials and has carefully guarded against attempts of employers to clog the legal machinery by means of unworkable measures.

It is safe to say that the legislative campaign of 1903 was unexpectedly successful. The necessity for better laws and more adequate means of enforcement was, to be sure, generally recognized. Excellent publicity was secured through the skillful management of the new Child Labor Committee. The press was moved to demand harmony between the labor and compulsory education law.[61] Appeal was made to state pride, and the relatively backward position of New York was pointed out.[62] Organized labor, having secured independent data showing the evil effects of the labor of children, threw its strength into the fight.[63] Yet the man who introduced most of the child labor bills that later became law had little hope that they would pass. A letter written by him to the chairman of the New York Child Labor Committee at the close of the session is of interest, showing not only the attitude of the friends of the proposed measures, but giving a contemporary opinion of the efficiency of the organization backing it. "At the outset," he writes, "I found it to be the almost universal opinion held by members of the Legislature that the legislation was too advanced, and would never be enacted into law. That the fortunate contrary result was obtained was due solely to the magnificent campaign waged by you. So thoroughly was

4. To aid in promoting the enforcement of laws relating to child labor. 5. To form auxiliary associations for the purpose of accomplishing these things.—From *A Ten Years' War Against Child Labor in New York State.*

61. *E. g., New York Mail and Express,* Jan. 10, 1903, editorial.

62. *New York Commercial Advertiser,* Jan. 13, 1903, editorial.

63. *Rpt. of Central Federated Union,* 1903.

the work done that all opposition was silenced through fear of opposing the intelligent public opinion that had been aroused."[64]

The fight for and against the legislation of 1903 centered about the requirements for working papers, more particularly the documentary proof of age. The outstanding features of the child labor law as enacted, were the following.[65]

1. No child under fourteen could be employed in any factory, and none under sixteen could be so employed without a certificate regularly issued by the Commissioner of Health or the executive officer of the board or department of health of the city, town, or village in which employment was sought.
2. The applicant was required to submit: a. His school record showing that he had attended a public school or its equivalent for at least 130 days during the year preceding his fourteenth birthday, that he had received instruction in the common branches, and that he was able to read and write simple sentences in English. b. Documentary proof of age in the form of an attested transcript of a certificate of birth, certificate of baptism, or other religious record, or in case such evidence was not available, and only then, an affidavit of parent or guardian to the effect that the applicant was fourteen years of age. The affidavit was made before the officer issuing the certificate, and no fee was permitted.
3. The issuing officer was required to examine the child as to his ability to read and write. Before issuing the certificate he was also to satisfy himself that the applicant was physically fit to perform the labor proposed; in doubtful cases, the question of physical fitness was to be determined by a physician of the board of health.

Now for the first time the requirements of the child labor laws and the compulsory attendance law were in harmony. Heretofore, there had been no adequate basis for coöperation between the boards of education throughout the state and the boards of health charged with the duty of issuing working papers. While close coöperation remains to this day a thing to be desired rather than an accomplished fact, the laws themselves were no longer in conflict. New York was in advance of any other state in the Union at the time in requiring of the

64. Hon. E. R. Finch, quoted in letter by Robert Hunter, May 25, 1903. Files N. Y. Child Labor Com.

65. *Laws of New York*, 1903, ch. 184. It is interesting to compare this law with that of 1886, ch. 409. Discussion *supra*, pp. 123f.

working child not only evidence of a minimum age, but a definite school-attendance record. Besides these data, the law required that the child possess a certain ability to read and write as exhibited in an examination to be given by the officials issuing working papers. It must be admitted that this provision was not generally enforced, but it proved extremely useful, where employed, in checking the certificates of attendance issued by school authorities, documents which, singularly enough, were frequently found unreliable.[66]

Lest the following somewhat critical pages give the impression that the legislation of 1903 was so poorly enforced as to prove of little value, it should be said that almost immediately the officials in the departments of Labor and Education began to work in coöperation,[67] and with considerable effectiveness. The whole number of parents prosecuted in the decade preceding 1903 had been 2206; more than half that number were proceeded against in 1904 alone.[68] In some of the cities that had been rather notorious offenders against both the labor and the attendance law there was an activity which resulted in greatly increased attendance,[69] while in the state at large the percentage of attendance upon enrollment in all schools, public and private, rose from 71 per cent in 1902 to 76.1 per cent in 1905.[70] Indeed, inadequate as some of this legislation soon proved to be, its real importance can scarcely be exaggerated. Of that portion known as "The Newsboys' Law," Jacob Riis, whose judgment cannot be questioned, and whose counsel was sought concerning the measure, said, "If it was the last service I could render New York, I could think of nothing of greater importance."[71]

Almost at once it became evident that the battle in behalf of children had not been completely won in the legislative campaign of 1903. Industrial habits of long standing are not easily broken. Parents and employers found methods of

66. Seq. p. 143f.
67. *Rpt. N. Y. Dpt. of Ed.*, 1906, p. 557.
68. *Rpt. N. Y. Dpt. of Ed.*, 1905, p. 74.
69. *Albany Times-Union*, Dec. 3, 1903.
70. *Rpt. N. Y. Dpt. of Ed.*, 1906, p. 7.
71. Letter approving the proposed bill; files N. Y. Child Labor Com., 1903.

escaping the penalties of the law, and young children continued to turn to the factory and shop instead of the school. The situation was particularly acute in New York City because of the exceptional conditions prevailing there, but even "up state" boards of health and educational authorities often fell far short of doing their full duty in the administration of the laws.[72] Fortunately the constitutionality of the documentary requirements for proof of age was settled early in the struggle for enforcement.[73] Magistrates would not apply the law strictly, however, not infrequently making it extremely uncomfortable for the officer bringing a case against an offending parent. Apparently they did not believe the law to be a wise one; they therefore refused to apply it. The city superintendent of schools had taken occasion to criticise the judges for failure to fine parents for keeping their children out of school to work, and in correspondence relative to the matter, one of the magistrates wrote, " . . . I have no hesitation in stating that it would have to be a very aggravated case before I should conclude to fine a poor parent five dollars."[74]

The effect of this attitude on the part of the courts brought the law into contempt and made its enforcement little more than a farce.[75] A parent haled before the court for failure to comply with the compulsory law might swear that the child was of legal age and the judge would promptly dismiss the case.[76] An employer reported for violation of the labor law stood less than one chance in a thousand of being compelled to suffer the legal penalty.[77] While this state of affairs must be attributed directly to indifferent, short-sighted, or corrupt officials, it must be borne in mind that every state seriously attempting to control the labor of children has experienced a similar period of conflict. Administrative and judicial officers

72. Rpt. of inspection of 24 cities, 1904, by J. K. Paulding. In files of N. Y. Child Labor Committee.

73. New York City *vs.* Chelsea Jute Mills, March, 1904.

74. Letter from Judge Lorenzo Zeller, Jan. 8, 1904; files N. Y. Ch. Lab. Com.

75. Letter District Supt. Stewart, Oct. 3, 1905; files N. Y. Child Lab. Com.

76. *Rpt. of J. K. Paulding,* Apr. 17, 1905; files N. Y. Child Labor Com.

77. In 1903, 50,572 violations were reported out of which there were 39 convictions. *Supra,* p. 131.

have ever hesitated to come between the parent and his child. The tradition of parental right over his offspring has been exceedingly persistent and has yielded only gradually to the conception of social welfare. In particular, courts have hesitated to lay a fine upon a parent already impoverished, because he permitted his child to add to the family income. Slowly, and even as yet only partially, society has invented methods of relieving the necessitous poor, so as to enable children to delay entrance upon productive employment and yet retain a full measure of self respect and independence.[78] It was believed that the lack of zeal on the part of local officials entrusted with the administration of the labor laws had its origin in the head of the Department of Labor, so at the close of Governor Odell's administration in 1904, the philanthropic forces interested in the welfare of children opened a determined fight against the reappointment of John McMackin as State Commissioner of Labor. In a report on the situation made to the governor elect, Frank W. Higgins, by the New York Child Labor Committee, Mr. McMackin was subjected to scathing criticism. It was held that the manufacturers were becoming more and more lawless every year;[79] that though more than fifty thousand cases of violation of the child labor laws had been reported in a single year, there had been but a few prosecutions with fewer than two score convictions; that the Commissioner of Labor was vested with sufficient authority to cause the laws to be enforced; that in this he had manifestly failed and had forfeited all right to further official consideration. Several influential papers aligned themselves with the Committee, and in their editorials reveal something of the situation. The following are illustrative:

"The New York law is now regarded as model legislation on this subject, (child labor), in some respects superior to that of Massachusetts. So far, however, have some of its provisions been from enforcement that the facts are as bad as they are

78. In 1905 the New York Child Labor Committee provided for a system of scholarships whereby a child whose labor was necessary for the adequate support of the family might receive a sum approximately equal to his normal weekly wage. Cases were carefully investigated, and it was found that the real need was relatively slight.

79. *Rpt. N. Y. C. L. Com.*, 1905, p. 19.

in some of those Southern States about which such a protest has been raised. . . . Children of four and five have been allowed to work under McMackin and one of six has been found working until nine o'clock at night. In one factory alone there were 300 children under fourteen, and in the busy season this factory is open until two or three o'clock in the morning."[80]

In the same tenor from the pen of the editor of the New York World:

"Governor Higgins can hardly ignore the volume of testimony offered as to the farcical non-enforcement of the child labor laws in this State.

"The evil is manifest. When tiny children are kept all day in rural canning works, when toilers of ten years, through perjury and fraud, are 'sweated' in city tailor shops and factories, when breaches of the law are not punished, even though called to the attention of the inspectors, not only do the children themselves become stunted in body and dwarfed in mind, but an insidious and dangerous condition is set up to lower the earnings of heads of families."[81]

And from the Globe on the same date:

"It appears that of the 54,000 cases of infractions of the child labor law reported to State Labor Commissioner McMackin last year, prosecutions were begun in but thirteen. This extraordinary discrepancy between offense and attempts at punishment strongly suggests that the charges brought against Mr. McMackin by the Child Labor Commission are true, and that the Commission's demand for his removal from office is justified."[82]

The State Labor Commissioner sought to justify his leniency in applying the laws of 1903 on the ground that he wished to give the manufacturers opportunity to become acquainted with them.[83] But since the essential principles of this legislation had been on the statute books since 1886, not much weight was to be attached to the argument, and the Child Labor Committee came off victorious in its first big fight against what appeared to be political manipulation of measures intended to protect children, Mr. P. T. Sherman being made Commissioner of Labor.

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80. *Collier's Weekly,* Dec. 24, 1904, editorial.
81. *New York World,* Jan. 9, 1905, editorial.
82. *New York Globe,* Jan. 9, 1905, editorial.
83. *N. Y. World,* Jan. 17, 1905.

Very naturally, the provisions of the child labor law requiring documentary evidence in proof of age produced some hardship. Frequently it was impossible for a child's parents to present the necessary papers, and the employment certificate was refused.[84] The law provided that in such cases the applicant should remain in school until sixteen, but an investigation made in New York City showed that when once given his certificate of attendance the applicant for working papers received scant attention from the school authorities. If refused the coveted papers by the Board of Health, he would enter some employment not requiring the certificate, then presently find his way into a factory or store, there to remain, unless discovered by an inspector.[85] In event of discovery, the usual penalty was rarely more severe than temporary loss of position, magistrates still being reluctant to levy a fine either upon parent or employer.[86]

It was found also that the rather limited range of evidence of age admitted by the law of 1903 was working a genuine hardship upon many children, some of them natives of the state who, due to defective and inadequate vital records, were unable to procure the required documents. The law was, therefore, amended in 1905, authorizing boards of health to accept "other documentary evidence" in addition to the certificate of birth or religious record.[87] At the same session the compulsory attendance law was so amended as to give truant officers the right to enter factories or other establishments where children were employed, to examine certificates, and to determine whether or not the conditions of the law had been met.[88] Interference with such an officer was made a misdemeanor.

The administration of the child labor laws continued to offer

84. Between 1903 and 1906 an average of 2,200 children yearly, all fourteen years of age, were refused working papers because of inability to produce the proper documents. *Rpt. of Sec. Geo. A. Hall,* N. Y. C. L. Com., Oct., 1906.

85. *Ibid.*

86. This state of affairs continued until 1907, when children between fourteen and sixteen were required to secure the employment certificate before leaving school.

87. *Laws of N. Y.,* 1905, ch. 518.

88. *Laws of N. Y.,* 1905, ch. 311.

very real difficulties. Boards of health in many of the towns and cities frequently regarded their duties with indifference. In Manhattan and Brooklyn the Child Labor Committee was able to stimulate the health officers and to give very practical assistance by maintaining at the working paper offices salaried agents, interested social workers who rendered friendly aid of an expert character, and who were often able to advise applicants for employment certificates as to methods of procedure in securing proper evidences of age. But "up state," where the aid and supervision of such experts was wholly lacking, officials often became exceedingly lax in their methods. At this time the Department of Labor had no supervisory authority over the granting of employment certificates. Moreover, the Commissioner and his inspectors were primarily concerned in dealing with those who were employing children to whom no papers of any kind had been issued.[89]

Every advance, however, won new support and made further progress possible. The legislators of 1907 took action for which the labor organizations had been struggling for many years, limiting to eight hours the working day of factory employees under sixteen years of age.[90] Other legislation of particular importance to working children was the following:

Children under sixteen applying for working papers were required to remain in school until such papers had been granted.[91]

In cities of the first class, the certificate of an approved physician was admitted as final proof of age in case other documentary evidence was lacking.[92]

School attendance officers were given joint power with the police in enforcing the newsboys' law, and the scope of this measure was considerably extended.[93]

The following year, measures of still greater importance from the standpoint of enforcement were enacted; the inspection of mercantile establishments in the three cities of the

89. Letter of Commissioner Sherman, Oct. 23, 1905; files N. Y. C. L. Com.
90. *Laws of 1907*, ch. 507.
91. *Ibid.*, ch. 585.
92. *Ibid.*, ch. 291.
93. *Ibid.*, ch. 588.
94. New York, Buffalo, and Rochester.

first class[94] was transferred from local health authorities, at whose hands the exploiters of child labor had not suffered, to the State Department of Labor;[95] secondly, in these cities permanent school census boards were established.[96] It is not easy to overemphasize the importance of this advance in effective administration. Its far-reaching effect was anticipated, and the action was actively opposed by the merchants and manufacturers through strong lobbies at Albany.[97]

The rapid advance in legislative standards, while extremely gratifying to the philanthropic agencies backing the movement, carried a certain disadvantage. Those responsible for the enforcement of the laws found it difficult to keep up with changing standards. No sooner did they become accustomed to the requirements fixed by legislative enactment than an amendment would require revision of method, producing a degree of confusion among officials extending, no doubt, to the parents and children concerned.

During this period the records of the Education Department show a steady gain in the rate of school attendance, yet it was recognized that many children were not in school at all, while others were very irregular in attendance.[98] The school authorities felt constantly the forces drawing children into productive employments. The Commissioner of Education says: "On the one side, the manufacturer, the merchant, the farmer, seem as never before in our history bent on employing cheap labor, or that which seems cheap;—on the other hand is the parent who apparently places the dollar above the child, and in whose mind is firmly entrenched the old common law idea—that the parent is the absolute owner of his child until it is of age."[99]

The Department complained that the method of appointing attendance officers by the town boards throughout the state was anything but satisfactory, many of these officials being "ineffective and worthless." Better material could not be

95. *Laws of 1908*, ch. 520. Passed at extra session.
96. *Ibid.*, ch. 249.
97. Geo. A. Hall, in *Charities and Commons*, July 20, 1907, p. 434.
98. *Rpt. Ed. Dpt.*, 1907, p. 7.
99. *Ibid.*, p. 10.

secured "because an intelligent and courageous man will not undertake the delicate work of enforcing the law for a mere pittance of from ten to twenty-five dollars per year, which is usually the amount paid by town boards."[100]

The judges, in many cases, remained superior to the law.[101] The attendance officers had learned to bring cases before Manhattan magistrates only as a last resort, knowing that the proceedings would be likely to end in the discharge of the accused and, perhaps, in the reprimand of the officer,[102] while in many other parts of the state there was equal reluctance to convict.[103] But perhaps the most discouraging element in the situation at this time was the attitude of indifference assumed by a number of the cities of the state. With hundreds of children out of school, many of them illegally employed, not a single arrest would be made,[104] while in forty-five other cities a total of 1063 delinquent parents were arrested, of whom only 263, or

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100. *Ibid.*

101. One judge refused to consider the case of a boy less than fourteen found at work because in his opinion any boy who had reached the required grade in school should be allowed to go to work regardless of his age. Of 55 cases brought before seven magistrates, 29 coming before six of these officials netted four fines; the remaining 26, of precisely the same character, were brought before Judge House, recently chosen to the bench and determined to back the school authorities, and all but two resulted in convictions. *Unpublished report of investigation made in 1907 by Eugene E. Agger;* files N. Y. C. L. Com.

102. Out of 912 cases brought in the school year 1908-09 against those in parental relations for violation of the attendance law in New York City, 235 of the accused were fined, 15 were imprisoned, while 653, or 71½ per cent, were discharged. In the same year, 2,504 violations of the newsboys' law were reported, 239 arrests were made, 104 of those arrested were discharged, 9 were fined, 12 were committed to institutions, 114 were given suspended sentences. *New York Globe,* Nov. 13, 1909; from *Annual Rpt. Pres. Winthrop, City Board of Education.*

103. The Commissioner of Education says: "It has been almost impossible for school boards and superintendents in certain cities to get police magistrates to punish delinquent parents — even when the same offender has been repeatedly arraigned for violation of the law." He cites one city in which 98 parents were arrested in a space of three months, with abundant evidence to establish their guilt. Two of them were fined one dollar each; the others were dismissed. *Rpt. Ed. Dpt.,* 1908, p. 8. See also *Rpt. Dpt. of Labor,* 1911, *Bureau of Merc. Inspection,* p. 429.

104. *Rpt. Ed. Dpt.,* 1908, p. 9. The cities listed as reporting no arrests or prosecutions for the violation of the attendance laws are as follows: Albany, Auburn, Binghamton, Corning, Cortland, Elmira, Gloversville, Hornell, Ithaca, Jamestown, Johnstown, Little Falls, Lockport, Middleton, Newburgh, Ogdensburg, Olean, Oneida, Plattsburg, Poughkeepsie, Rensselaer, Rome, Syracuse, Watertown.

slightly more than twenty-five per cent, were fined, and 36 were given jail sentences.[105] About this time New York City was receiving unwelcome publicity because of inadequate enforcement of state and municipal laws, but the records show that in regard to the protection and education of children her record was far better than that reported for the cities in the rest of the state, about seventy-two per cent of all convictions for the violation of the attendance and child labor laws being in New York City alone.[106]

It should be recognized clearly that no single group, as public officials, employers, or short-sighted parents, may be held responsible for the non-enforcement of these laws, theoretically approved almost everywhere, yet so frequently ignored. Even teachers, principals, and superintendents were slow in yielding full coöperation in carrying out the measures. For example, in 1908 it was discovered that many children in New York City were at work on certificates of schooling alone.[107] These children had claimed their record of attendance, had been permitted to leave school, but had been held up by the Board of Health because of inability to meet some one of the requirements imposed by the law.[108] Here the principals were clearly at fault, as under the law of 1907 no child under sixteen might be permitted to leave school until his working papers were completed. A reasonable degree of coöperation between the schools and the health officials would, of course, have resulted in the return of most or all of these children to school.

Singularly enough, the Board of Health was constantly obliged to refuse working papers to children on the ground of illiteracy, though regularly certified by principals as having met the schooling requirements. Just why the school authorities should have continued to certify children who were almost entirely illiterate has never been explained. In 1906,

105. *Ibid.*

106. *Rpt. Ed. Dpt.*, 1909, p. 30.

107. In the following pages rather extended reference will be made to law enforcement in New York City. This is primarily because material is accessible here, while up state, except in a few instances, it is either unreliable or lacking. This city is hardly typical, as manifestly more vigorous enforcement was attempted than in other parts of the state.

108. Letter, Miss Jeanie V. Minor, agent of N. Y. C. L. Com.; Sept. 4, 1908; files N. Y. C. L. Com.

children to the number of 479, regularly certified by principals, were found unable to pass the reading and writing tests, usually simple sentences dictated from the fourth Reader. The number of failures continued for several years to be relatively large, being 462 in 1908, 376 in 1910, 239 in 1912, falling to 79 in 1915. A few hundred failures out of several thousand applicants for working papers may seem trifling, but that there should be a single one is a reflection upon those in charge of issuing the school record.[109] That careless certification of children was quite general among the schools is evidenced by an analysis of the reports for the year ending June 30, 1909, which shows that applicants from 129 public schools and 32 parochial schools of Manhattan were refused working papers on demonstrated inability to read and write.[110] Further light is thrown upon the situation by a circular letter from Superintendent William H. Maxwell, dated June 15, 1908, addressed to "Principals of all Public and Other Schools," and running in part as follows:

"Many principals have issued to children during the year school record certificates, when such children did not possess the required scholarship. Others have knowingly permitted children to apply for an employment certificate at the office of the Board of Health with only an affidavit of a parent as evidence of the date of birth."[111]

The correspondence of Associate Superintendent Edward B. Shallow with the Secretary of the New York Child Labor Committee and with others interested in law enforcement locates more specifically the responsibility for failure. Charged with the administration of the attendance laws, he was in closer touch with the various aspects of the city's problems of the working child than was any other single official. He found it necessary, he said, to reprove some of the oldest and best known principals for failure to observe the regulations relative to working papers.[112] Some had apparently found it im-

109. The number of failures dropped to two figures in 1914, due, no doubt, to the legislation of 1913 requiring that applicants for working papers must have completed the first six years of the elementary school course. *Laws of New York*, 1913, ch. 144.

110. Files, N. Y. C. L. Com.

111. *Ibid.*

112. Letter, Oct. 16, 1908; files N. Y. C. L. Com.

possible to adjust themselves to the changes in the laws or even to follow simple directions prepared for their guidance. Certain of them were still following requirements displaced by the amendments of 1903.[113] In a burst of impatience, Mr. Shallow writes, "Would that someone might point out the way to me, to make all these people understand ordinary English directions!"[114]

Besides making clear the shortcomings of the teaching forces in carrying out the provisions of the law, Mr. Shallow shows in his correspondence the continued failure of the newsboys' law, commended so highly in 1903 by Jacob Riis. As late as 1909 he reported a case in which certain newsboys had been arrested for violating this law and had entered pleas of guilty. The magistrate accepted the pleas, promptly suspended sentences, and criticized the officer in the presence of the boys, saying he had no right to make the arrests.[115] In another letter, reporting the difficulties in handling these cases, Mr. Shallow noted that he had but four men for this particular service, and these were obliged to work in pairs, "because when a man working alone attempts to arrest a persistent violator, he is usually surrounded by a mob and in more than one instance, the boy has been taken away from the officer by the unruly crowd."[116]

The situation in this unsettled period was still further complicated by the lack of coöperation between the school and labor officials. The factory inspectors, on finding children illegally employed, would promptly cause their discharge. It was no part of their duties to see that these children returned to school, and few of them would do so voluntarily. They would either loaf about the streets or secure employment elsewhere, safe in the latter case until discovered by an inspector, perhaps six months or a year later. In 1909 it had been agreed that immediately on discharge of a child by the labor authorities, the chief attendance officer should be notified. The Department of Labor failed to carry out the terms of the agree-

113. Letter, June 1, 1909; files N. Y. C. L. Com.
114. *Ibid.*
115. Letter, Oct. 25, 1909; files N. Y. C. L. Com.
116. Letter, Jan. 28, 1909; files N. Y. C. L. Com.

ment, but instead permitted the names of discharged children to accumulate for a month, sending them to the attendance officers in lots of two or three hundred, too late to be of great value in bringing the children back to school.[117]

Notwithstanding the obstacles in the way of complete enforcement of the laws for the protection of children, progress was continuous. The years between 1909 and 1913 were distinctly years of consolidation. Legislative changes were not so frequent as in the periods immediately preceding and following, those made being intended to facilitate enforcement of laws already in operation. During this period the number of children between fourteen and sixteen employed in factories increased by about eighty per cent; the percentage of illegal employment, so far as ascertained, remained practically the same, slightly less than eight per cent.[118] In 1910, when the Department of Labor took over the inspection of mercantile establishments in first class cities, more than half the children found at work were employed contrary to law. In 1913, with an increase of about eleven per cent in the number employed, there had been a reduction of approximately an equal per cent in illegal employment.[119] Progress had also been made in enforcing the attendance law. In both country and city, parents were beginning to realize that the law could be enforced. In 1911 legislative authority had been gained for a more adequate system of supervision in districts outside of cities. District superintendents were now stimulated and aided by thirteen inspectors from the State Department. These inspectors brought the Department into close touch with every part of the state, and under the direction of the chief of the attendance division, Honorable James D. Sullivan, the attendance laws were really functioning. Funds were frequently withheld from districts refusing to coöperate,[120] and prosecutions now resulted in con-

117. Letter, Mr. Shallow to Mr. Hall, Dec. 22, 1910; files N. Y. C. L. Com.

118. *Rpt. N. Y. Com. of Lab.*, 1913, pp. 41-42. 18,764 children between 14 and 16 were employed in factories in 1913.

119. *Ibid.*, p. 85.

120. *Rpt. Ed. Dpt.*, 1908, p. 12; 1912, p. 334; 1913, p. 300. While a few districts are thus penalized each year, this power is exercised only after all other means to secure attendance have failed.

viction in about one case out of four.[121] Moreover, the parochial schools, formerly distinctly suspicious of any law or ruling which touched their interests, now welcomed the assistance and supervision of the State Department, thus marking one more advance in the direction of unification in the educational activities of the state.

The most important step toward more efficient enforcement of attendance laws in the three cities of the first class was the enactment of the permanent census law in 1908,[122] a measure which passed the Assembly without a dissenting vote.[123] The main provisions of this law were:

1. A census board composed of the Mayor, the police commissioner, and the city superintendent of schools.
2. An initial census taken under the direction of this board by the police and amended from day to day by these officers.
3. Any person in parental relations to a child of school age to report to the police of his precinct two weeks before such child reached the compulsory school age, its name, residence, school to be patronized, together with other data necessary for perfecting an individual record. In case of removal to another precinct or to any part of the same precinct, data of a similar nature to be recorded at the police station at once.

The initial census was taken in Buffalo and Rochester in October, 1909, but in New York City there was delay due to the fact that the law was quite frankly opposed by both the police commissioner and the mayor.[124] Commissioner Draper, an earnest advocate of the permanent census, brought such a degree of pressure to bear upon the hostile members of the census board as to secure action, and in 1910 the enumeration was put under way, not by means of the regular police force, as the law had contemplated, but by special police detailed for the purpose. It must be said that this law was never fully

121. *Ibid.*, 1914, pp. 511, 611. Nearly 3,000 prosecutions a year were now undertaken. In New York City in 1911-12, 93 per cent of the parents brought before the magistrates for violation of the attendance laws were either discharged or dismissed with a reprimand. Fifty-five parents were fined, the total sum being $163.00.—*Rpt. of Supt. W. H. Maxwell to the N. Y. C. L. Com.*, Dec. 20, 1912; files of the Com.

122. *Supra*, p. 141.

123. *Rpt. Ed. Dpt.*, 1911, p. 40.

124. *First An. Rpt. Director of Attendance, New York City*, p. 9.

enforced in New York City.[125] Police Commissioner Bingham gave only reluctant coöperation, and his successor, Commissioner Waldo, while apparently less open in his opposition, "showed his hostility to the census work and his absolute inaccessibility to any but the traditional conceptions of police duty."[126]

Notwithstanding the handicap under which the permanent census law went into operation, its value at once appeared in its early results. Even before its machinery was perfected, the police census showed 518 children in Rochester unlawfully employed and out of school, 6,318 in Buffalo similarly employed and illegally absent from school, and, although the census in New York City was very unsatisfactory and certainly fell short of revealing the true situation, it disclosed 23,241 cases of this kind.[127] Perhaps no more convincing testimony of the inadequacy of the former system of law enforcement could be presented. Machinery for the administration of compulsory attendance had been maintained in these cities since 1895; large sums had been expended by the state in carrying out the requirements of child labor laws, yet the first dragnet thrown out by the new census boards brought in 30,077 children who had managed to escape the vigilance of the inspectors and attendance officers.

But in the rapidly growing city of New York a permanent census alone could do little more than call general attention to a situation which was already recognized by those in touch with the problems of industry and education. Many believed certain departments of the city school system required rather complete reorganization. In the fall of 1910 the Board of Estimate and Apportionment ordered an inquiry into the organization, equipment, and methods of the Department of Education. An extended investigation was made, in the course of which detailed attention was given to the problems of irregular attendance. Conditions revealed were sufficiently serious to warrant recommending a change in the methods of

125. *Ibid.*, p. 10. The defective method was displaced by the present system in 1914.

126. *Ibid.*

127. *Rpt. Ed. Dpt.*, 1912, p. 325.

enforcing the compulsory law.[128] The final outcome was such legislation as enabled the city to establish, through the board of education, a Bureau of Compulsory Education, School Census, and Child Welfare, this organization assuming the duties formerly exercised by the permanent census board, and becoming responsible for the enforcement of the compulsory education law, the newsboys' law, the school census law, and for child welfare activities in general.[129]

The work of the Bureau of Attendance—its short legal title—can be given but a few paragraphs in a later section. It represents an advanced step in centralization and coördination, and, properly supported, should become highly effective in securing school attendance.

The same general dissatisfaction with methods of dealing with children which led to the New York School Inquiry was responsible for another investigation of even greater importance. For some time there had been a growing demand for a closer relationship among the various instruments of government concerned in the administration of employment and education laws throughout the state. This demand was accentuated by the practices of two industries which employed many thousands of children and which the existing regulations seemed unable to reach, the up state canneries and the city tenement manufactories. In the former, in rush seasons children were employed for eighty and more hours a week.[130] Though the peculiar needs of the canning industry had been recognized in the law, these establishments seemed unwilling to accept any restrictions whatever, and during the busy seasons violation was the rule. The courts sympathized with the employers, and conviction was next to impossible.[131] But even more serious were the conditions prevailing in city tenements, particularly in New York City. Here more than forty kinds of manufacturing were carried on in 13,000 houses under conditions quite beyond the control of the Department of

128. *Report Committee on School Inquiry*, p. 673 ff.

129. *First Report Bureau of Attendance*, pp. 15, 16.

130. There is at least one authenticated case of 117½ hours in one week; photograph of time card in files of New York Child Labor Committee. See also *Second Report Investigation Commission*, 1913, Vol. I, p. 136f.

131. Second *Report Factory Investigation Committee*, 1913, Vol. II, p. 769f.

Labor, which found it impossible to visit these places more than once a year.[132] It was known that many young children were employed here, though there were no adequate data as to the extent of illegal labor. Attempts had been made to secure an official investigation, but vested interests had succeeded in blocking the measures proposed. But on March 25, 1911, occurred a disastrous fire in the factory of the Triangle Waist Company, in which one hundred forty-five employees, mostly women and children, lost their lives. The conviction that this unfortunate affair was due to failure to comply with the requirements of the factory law shocked and aroused the public, and it was now possible to secure the appointment of a commission known as the State Factory Investigating Commission, whose duty it was to inquire into the conditions under which manufacturing was conducted, with special regard to the health and safety of operatives, in order that remedial legislation might be enacted.[133]

The Commission was limited at first to an inquiry into the conditions under which manufacturing was carried on in cities of the first and second classes, but later its jurisdiction was extended to include both manufacturing and mercantile industries throughout the state.[134] A vast array of facts was gathered relating to safety, health, wages, hours of employment, and legal protection of employees; public hearings were held; hundreds of witnesses were examined; and extensive personal investigations of actual working conditions were made by members of the Commission, by expert employees, and by representatives of philanthropic organizations.[135]

The investigation of the conditions under which children were employed revealed little that was not already known by those who were in touch with the industrial situation in the state. In the cannery sheds mere infants were found at work.[136] In the city tenements children not over five years of age were

132. Preliminary *Report Factory Investigation Committee,* 1912, Vol. I, p. 574.

133. *Laws of 1911,* ch. 561.

134. *Laws of 1912,* ch. 21.

135. *Fourth Rpt. Fac. Inves. Com.,* 1915, Vol. I, pp. 1-30; *Prelim. Rpt.,* 1912, Vol. I, p. 25.

136. *Rpt. of the Commission,* 1913, Vol. I, p. 135ff.

employed, usually by their own parents, under conditions extremely prejudicial to health, and in open violation of the law.[137] It was found, also, that many children who had been granted employment certificates and were legally at work were sickly and quite unfit to perform the tasks which boards of health had authorized them to undertake.[138] The lack of central authority in administration impressed the Commission. Not only was there no uniform policy in regard to the health requirements for working papers, but in proof of age and in evidence of educational attainment the interpretation of standards varied throughout the state.[139] Those intrusted with the execution of these measures were often found to be ignorant of their content. The frequent changes of the preceding years had confused the officials, no central authority had been responsible for the proper publicity and dissemination of amendments, and as a result there had grown up great variety in forms, and methods of procedure.[140]

The Commission became convinced that the labor legislation of New York had been based upon faulty principles. Heretofore it had been regarded as necessary to indicate in the law itself all requirements for the protection of health, safety, and morals of employees, thus giving the statute a rigidity that made adjustment to local or individual needs impossible.[141] The Commission now proposed such a reorganization as would permit the delegation of a measure of power to a responsible central authority which might make special rules and regula-

137. *Ibid.*

138. *Ibid.*, p. 176. The law now provided that employment certificates should be issued to children physically fit to engage in the labor proposed, but fixed no standard of fitness and required no physical examination, leaving the interpretation of this requirement to local boards of health. As a result the health of working children was very inadequately safe-guarded. New York City adopted a standard of height and weight, and subjected doubtful cases to medical examination, but in general, boards of health throughout the state gave little heed to the physical condition of applicants for working papers. In 1907, while 23,013 applicants were granted employment certificates, only 4 were refused for physical reasons. In 1910, the number of certificates granted was 56,351, and though 501 applicants failed to meet the physical requirements, this was less than one per cent of the total number. See *Prelim. Rpt. Fac. Inv. Com.*, p. 102.

139. *Second Rpt. Fac. Invest. Com.*, 1913, Vol. II, p. 178f.

140. *Ibid.*, p. 179.

141. *Ibid.*, p. 28.

tions and provide for their enforcement, basing such action on certain broad legislation fixing minimum and maximum requirements.[142]

In accordance with this principle the Commission proposed a complete reorganization of the Department of Labor, placing at its head an Industrial Board of five, composed of the Commissioner of Labor and four members appointed by the governor. The Commission also recommended that the entire Labor Code be rewritten. In addition to these recommendations, presented in the form of bills, and enacted into law in 1915, the Commission, at the end of each year of its service, proposed numerous bills for remedial legislation, which were accepted by the legislature with gratifying unanimity. The following provisions were directed to the further control of the conditions under which children might be employed:

1. The Department of Labor was given power to supervise local boards of health in the issuance of working papers; to make physical examinations through its own medical inspectors of children between fourteen and sixteen at work in factories, and to exclude any found unfit, cancelling the employment certificates issued by boards of health; and to make rules and regulations through its Industrial Board governing the employment of minors under eighteen in dangerous occupations.[143]
2. A thorough physical examination was made a prerequisite for working papers.[144]
3. The employment of children under fourteen in tenement house manufactories and cannery sheds was forbidden.[145]
4. It was required that the school record of an applicant for an employment certificate must show that the child had completed the work prescribed for the first six years of the public elementary school or school equivalent thereto.[146]
5. The newsboys' law was strengthened, the minimum age raised to twelve, the closing hour was made eight p. m., and the responsibilities of parents made more definite.[147]
6. The terms "factory," "mercantile establishment," and "tenement house" were so clearly defined as to leave no grounds for confusion or misinterpretation.[148]

142. *Ibid.*, p. 29.
143. *Laws of 1913*, ch. 144.
144. *Laws of 1912*, ch. 333.
145. *Laws of 1913*, ch. 529.
146. *Laws of 1913*, ch. 144.
147. *Laws of 1913*, ch. 618.
148. *Laws of 1913*, ch. 529; *Laws of 1914*, ch. 512; *Laws of 1915*, ch. 650.

By the legislation of 1912 and 1913 the most serious defects of the child labor laws were corrected. Children were now required to remain in school either until they had completed the first six years of the course or had reached the age of sixteen. Only those physically fit for labor, as evidenced by a careful medical examination, could secure working papers. For the first time local boards of health were subjected to at least a slight degree of state supervision in the issuance of employment certificates. But more important than any of these provisions was the creation of the Industrial Board vested with power to administer the labor laws and to make regulations, within fixed limits, flexible enough to serve the best interests of employers and employees in various industries. The authority given this board was a pledge of unity, as the creation of the investigating commission had been a demand for efficiency. A new era in state protection of wage-earners was at hand.[149] Coöperation might now be expected, at least in a measure, to take the place of class struggle and political alignment for and against industrial measures, since it had been demonstrated that improvement in the conditions under which the employee carries forward his work means larger profit to the employer.[150] At the very least, the idea of community interest between worker and employer receives some recognition.

The program of the Factory Investigating Commission was an exceedingly ambitious one. That it was able to bring about such radical changes both in laws affecting labor and in methods of administration was undoubtedly due not so much to its constitution, admirable as it was, nor to a suddenly awakened sense of virtue on the part of the legislators, as to the fact that at this period there was a general movement, manifesting itself in various parts of the country, towards a more adequate defense of both adult and child labor, a definite

149. *Fourth Rpt. Fac. Invest. Com.*, 1915, Vol. I, p. 7.

150. *Ibid.*, p. 73. An excellent illustration of coöperation between the labor and school authorities is found in the juvenile department of the state employment bureau. Pupils who have secured employment certificates may register at the school and the applications may be transferred to the employment bureau where they are treated exactly as are personal registrations. The principal or superintendent of the employment bureau and the advisory committee on juvenile employment coöperate in securing suitable positions for the children who must leave school. *Laws of 1909*, ch. 31, as amended 1914, ch. 181.

reaction against the prevailing half-hearted methods of protection.[151]

Naturally it was not possible so to organize the new administrative machinery as to exclude all men not willing to sink personal and political interests. Scarcely had the Department of Labor begun to operate under the law of 1913, when it became evident that selfish forces were at work. Important posts were removed from the civil service and the places were filled with men not distinguished for their training or fitness for the work to be done.[152] Prominent citizens protested this action, and the public press demanded that the department be kept free from politics.[153] On the further recommendation of the Factory Investigating Commission, the Department of Labor was again reorganized in 1915, greatly centralizing authority and responsibility, bringing many important boards and bureaus under a single Industrial Commission.[154]

It has been noted that the law of 1913 required children under sixteen to complete the sixth grade of the elementary school before securing working papers. Almost at once agitation was begun to advance the scholastic requirements still further.[155] It had been found that in New York City about sixty-five per cent of all children securing working papers were under fifteen years of age and had not completed the elementary school course.[156] The Industrial Commission favored additional schooling for such children, and legislation was secured in 1916 requiring that those between fourteen and fifteen years of age could be granted employment certificates only in case they had completed the course of the elementary school or its equivalent.[157]

In 1916 and 1917 there was further legislation affecting the employment and education of children, some of it constructive and very significant, while other measures were designed mere-

151. *Fourteenth An. Rpt., N. Y. Com. of Labor,* p. 13.
152. *N. Y. Globe,* Feb. 28, 1914, editorial.
153. *Brooklyn Eagle,* Dec. 12, 1914, editorial.
154. *Laws of 1915,* ch. 674.
155. *Minutes N. Y. C. L. Com.,* Jan. 13, 1916 (unpublished).
156. *Ibid.*
157. *Laws of 1916,* ch. 465. Did not become effective until Feb. 1, 1917, leaving nearly a year for adjustment.

ly to strengthen laws already in operation. Of the latter type was a law laying additional restrictions upon occupations which might prove injurious to health or morals, aimed specifically at the employment of children in making moving picture films;[158] there were also progressive changes in the regulations concerning truants.[159]

Another measure which should be of great assistance in enforcing school attendance is one creating a permanent census bureau in every city in the state.[160] Such bureaus had already been established in the three cities of the first class, New York, Buffalo, and Rochester. In all other cities the school board now constitutes a census board, and under its direction the census is taken and amended from day to day. There is some doubt as to the efficacy of the census as now administered in this state. As noted in a later paragraph, it is not kept up in New York City as the law contemplates, nor does it appear that in the second and third class cities full use is thus far made of this important instrument.[161]

In constructive legislation there were two measures designed to make compulsory throughout the state a complete system of military and physical training.[162] The first law created a state military commission and required that all boys between sixteen and nineteen not exempted by the commission, be given military training, not aggregating more than three hours per week between September 1 and June 15 of each year.[163] An amendment of the year following made it possible for the commission to substitute for a part of the military work, such

158. *Laws of 1916*, ch. 278.

159. *Laws of 1917*, ch. 563.

160. *Laws of 1917*, ch. 567.

161. Director Davis of the New York Bureau of Attendance, states that the census, even in its present incomplete form, is of great value in enforcing school attendance.

162. Military training, *Laws of 1916*, ch. 566. Physical training, *Laws of 1916*, ch. 567.

163. This appears to be the first state legislation in the Union for compulsory military training. Colonial Massachusetts established such training, however, in 1645. The following is the record: "It is therefore ordered, yt all youth within this jurisdiction, from ten yeares ould to ye age of sixteen yeares shalbe instructed by some one of ye officers of ye band, or some other experienced shouldier whom ye chiefs officer shall approve, upon ye usuall training dayes, in ye exercise of armes, as small guns, half pikes, bowes & arrows, &c." *Rec. Col. Mass.*, Vol. II, p. 99.

vocational training or vocational experience as might prepare boys "for service useful to the state in the maintenance of defense, in the promotion of public safety, in the conservation and development of the state's resources, or in the construction and maintenance of public improvements."[164]

The second law prescribes instruction in physical training for all children and youth above eight years of age in the elementary and secondary schools, both public and private. The courses of instruction are to be determined by the regents of the University after conference with the military training commission, and may, according to the interpretation of that body, include medical inspection, talks and recitations in hygiene, supervised recreation, organized play and a great variety of other activities, as well as the usual forms of gymnastic exercises.[165]

An elaborate program of physical training has been worked out, one which probably cannot be fully realized for some time. Yet it is expected that at least the minimum requirements can be met, and that each child in the schools of the state will be reached in a systematic effort to insure to him sound health, physical vigor, self control, a spirit of coöperation, and habits of justice and fair play.[166] State aid in support of physical education is given to the extent of one-half the salary of the teachers engaged in it, provided that the appropriation for no one teacher shall exceed six hundred dollars.

These measures represent a very advanced step in compulsory education. New York now proposes not only to require that her children receive such intellectual training as will enable them to become intelligent members of their communities, but to insist that they be given such physical training as will render them efficient members as well. No other state has thus far matched her in this respect.[167]

Brief consideration must be given to the compulsory feat-

164. *Laws of 1917*, ch. 49.

165. University of the State of New York, *Bulletin No.* 631, 1917, p. 10.

166. *Ibid.*, p. 11.

167. War spirit was doubtless responsible for both these measures. The military program has not been developed. The legislature now in session is likely to limit appropriations for physical education.

ures of evening and continuation schools. The evening school has never become an important element in New York's system of compulsory education. Theoretically, it was made a finishing school for working boys between fourteen and sixteen who had not completed the elementary course, when, in 1910, a law was enacted requiring all such boys to attend an evening school for at least six hours each week for sixteen weeks annually.[168] The measure was made to apply to first and second class cities only.

Excellent work is being done in many evening schools throughout the state; but excepting a few cities, little effort is made to enforce attendance.[169] New York City is fairly typical: The law was unpopular from the first, both with the boys and with the school authorities.[170] Some effort was made to enforce it but without satisfactory results. Registration and average attendance declined steadily, until in 1915 of the 22,000 boys who, under the law, should have been in these schools, fewer than twenty per cent were registered, while the average attendance was but nine per cent.[171]

Compulsory features were not early to appear in day continuation schools in this state. In 1911, the year that Wisconsin inaugurated her system of compulsory continuation schools, Dr. Maxwell, Superintendent of the New York City schools, announced his conviction that the attempt to serve the needs of children in industry through evening schools was a demonstrated failure. He recommended that day continuation schools be established and that employers be required to allow each employee under nineteen years of age from four to six hours a week for forty weeks each year to attend such schools.[172] In 1913 it was provided by law that when a board of education in any city or district should establish part-time or continuation schools it might compel the attendance of employed children between fourteen and sixteen years of age for not less than four nor more than eight hours a week for thirty-six weeks

168. *Laws 1910*, ch. 16.

169. *U. S. Dpt. of Labor, Children's Bureau*, pub. 17, 1917, pp. 61-62.

170. *N. Y. C. School Report*, 1912-13, *Evening Schools*, p. 72.

171. *N. Y. C. School Report*, 1915-16, *Continuation and Part Time Classes*, p. 143.

172. *Ibid.*, p. 146; Report of Dr. George E. Meyers.

each year, provided such children had not already completed courses equivalent to that of the elementary school.[173]

It was expected that boards of education disapproving of compulsory attendance upon evening schools would take early advantage of the Wilmot law, but, outside of New York City, no district took steps to put it in operation. In this city the board established continuation classes in two schools in lower Manhattan and required the attendance of children who came within the terms of the law, who were living or employed below Fourteenth Street.

Notable progress was made here in establishing continuation classes with attendance upon a voluntary basis, or with compulsion exercised by employers rather than by school officials, a considerable number of the business houses employing children maintaining classes in their buildings and requiring attendance. Instruction in such classes was under the direction of the school authorities.

But neither evening or day continuation schools on a voluntary basis touched the real problem of the employment-certificate child. It was estimated that 58,000 children between fourteen and sixteen years of age were at work at a given time in New York City alone. Of these, about 37,000 had not completed the elementary school. The proposal of the Board of Education to establish day continuation schools in which the needs of these children might be met and to enforce attendance upon them could not be carried out owing to the lack of funds.[174] Pressure was brought to bear from various sources, and in 1919 a law was enacted providing for compulsory continuation or part-time schools throughout the state.[175]

Under the terms of this measure, school districts having a population of 5000 or over are obliged to maintain continuation schools or classes and to compel the attendance of all minors

173. *Laws 1913*, ch. 748; the "Wilmot Law."

174. *New York City School Report, op. cit.*, p. 148.

175. *Laws 1919*, ch. 531. The continuation school law of 1919 represents a very advanced step in the development of a complete system of compulsory schooling, and though it is certain to be modified by the legislature now in session, its historical importance seems to warrant a fuller statement both of it and the interpretations and regulations made by Regents of the University than is here possible.

between the ages of fourteen and eighteen who are not in regular attendance upon other instruction and who have not completed a four-years' secondary course approved by the Regents of the University. Those regularly employed are required to attend for at least four hours each week; those temporarily out of employment must attend not less than twenty hours a week. The Commissioner of Education is required by the law to make a survey of each city or district in the state in order to determine its peculiar needs; in this survey the Industrial Commission and the Commissioner of Agriculture are directed to coöperate. The local board of education is made responsible for the establishment of the continuation school and for carrying out all the provisions of the law, but it is required to appoint an advisory board of five members representing the local trades, industries and occupations, whose duty it is to give counsel and advice. Generous financial aid is given by the state to be applied to paying the salaries of teachers in the part-time schools, such aid being supplemented through the Smith-Hughes funds.

The law required that the part-time schools be put in operation with the opening of the school year in September, 1920. This measure was not retroactive, and during this year attendance is compulsory only for children between fourteen and sixteen years of age. As in Massachusetts a district failing to establish a school forfeits a portion of the state appropriations, this forfeiture being turned over to the board of education of the offending city to be used in the maintenance of the required school. Suitable penalties are established for infraction of the law by parent, child, or employer.

According to the records available in the office of the Division of Vocational and Extension Education at Albany, continuation classes have been organized in 103 cities and districts with an attendance of 15,972.[176] A ruling of the Regents permits local authorities to hold continuation classes on Saturday forenoons, and it is estimated that about one-fifth of the schools have all their work at this time. There are some distinct advantages in this plan. Many industries

176. The enrollment ranges from a single pupil in Huntington to 8,000 in New York City.

provide for a half-holiday on Saturday afternoon. In such case it does not disarrange matters seriously to relieve minors for the entire day each week. Then, as a more important element, school plants, already crowded, sometimes find it exceedingly difficult to provide suitable quarters for the continuation classes, the result being that these children who need every possible means of encouragement find themselves in buildings and surroundings quite the reverse of inspiring. By conducting this work on Saturday morning the best that the plant affords may be utilized. It is too early to discuss the enforcement of the continuation school law. In the year 1920 working papers to the number of 74,686 were issued in this state to children between fourteen and sixteen years of age.[177] Since only 15,972 children of corresponding ages are registered in the continuation schools this year, it seems probable that many children are being deprived of the schooling intended by the law through inadequate enforcement.[178]

The friends of education, in preparing the continuation school law, apparently went further than the present temper of the people warrants. Yet even with the modifications contemplated, New York will have a system of compulsory schools which, properly administered, will keep all her children under educational influences until they are sixteen years of age.[179]

The features of the compulsory attendance and child labor laws now in operation and most important from the viewpoint of this study are here briefly summarized:

1. Every child of compulsory school age and in proper mental and physical condition shall attend school for the full session, at least 180 days annually, as follows:

177. Manuscript record, office of Industrial Commissioner.

178. The writer visited the schools in Albany and Troy and spent several days in studying the situation in New York City. The difficulties in connection with the enforcement of the measure in the latter place are very great, and can only gradually be overcome. In the smaller cities, enforcement is largely a question of coöperation between the schools and the industrial forces. Some of the details of the law, for example, the report by the employer in case a child stops work, are not carried out, but a sincere attempt is made, apparently with a fair degree of success, to keep employed children in school.

179. It is expected that compulsory attendance upon continuation classes will be required only of children between fourteen and sixteen, and that no school will be maintained unless there are at least fifty minors who should attend.

a. In cities and districts of 5000 or more inhabitants and employing a superintendent, between the ages of seven and fourteen; between the ages of fourteen and sixteen unless possessing an employment certificate and regularly employed.

b. In all other districts, precisely as above, except that the compulsory period begins at eight instead of seven.

c. No child who has not completed the elementary school course or its equivalent can secure an employment certificate prior to his fifteenth birthday; in many cases, therefore, the minimum leaving age is fifteen.

d. Special educational opportunities for children who are retarded or who are defective mentally or physically.

e. Cities or districts having a population of 5000 or more must maintain continuation or part-time classes and require the attendance during thirty-six weeks, not less than four hours nor more than eight hours each week, of all regularly employed minors under eighteen, not graduates of high school. All such minors not regularly employed and not in any other school are required to attend not less than twenty hours per week.

f. The board of education in all cities of the state except those of the first class constitutes a census board, and under its direction the census is to be taken and amended from day to day by attendance officers and special census enumerators.

2. Enforcement of attendance is in the hands of local school authorities and is administered through attendance officers, with whom the Compulsory Attendance Division of the State Department of Education coöperates.

3. The penalty upon the parent whose child does not attend upon instruction as required is, for the first offense, a fine not exceeding five dollars or imprisonment for five days; for each subsequent offense the fine may reach a maximum of fifty dollars and imprisonment may be extended to thirty days. Special penalties are fixed for the violation of the continuation school law.

4. Employment of children is restricted as follows:

a. No child under fourteen may be employed in any occupation during any part of the time the public schools are in session.

b. No child under fourteen may be employed at any time in a factory, mill, mercantile establishment, business or telegraph office, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages.

(1) But boys over the age of twelve years may be employed in gathering produce, for not more than six hours in one day, subject to the requirements of the education law, and

farmers' children may engage in farm work for their parents when schools are not in session.

(2) In cities of the first, second and third classes boys over twelve may, under certain restrictions, sell newspapers and magazines in the streets or other public places.

c. In cities of 5000 or more children between fourteen and sixteen may not be employed in any occupation unless in possession of an employment certificate. In school districts of less population they may be employed at home or in other than the forbidden occupations if in possession of a school record certificate.

d. Children under sixteen may not be employed at night, or for more than eight hours a day in factories, or for more than nine hours a day in mercantile and other regulated industries. In no case is employment to be for more than six days a week.

5. Employment certificates are issued by local boards of health on application of the child's parent or custodian when the following conditions have been met:

a. Documentary evidence of age to be presented.

b. If the child is between fourteen and fifteen, he must present a school record certificate and a certificate of completion of the elementary school course. If he is between fifteen and sixteen he must present a school record certificate showing that he has completed at least six years of the elementary school course.

c. Physical fitness as determined by examination.

d. Ability to read and legibly write simple sentences in the English language, determined by examination.

6. School record certificates are issued as follows:

a. In cities of the first class by the principal or chief executive of the school.

b. In other cities and districts having a population of 5000 or more, by the superintendent of schools.

c. In all other districts, by the principal teacher of the public school.

7. Enforcement of the child labor laws is primarily in the hands of inspectors of the State Industrial Commission, but in cities other than those of the first and second classes, having 3000 or more inhabitants, the mercantile law is enforced by local boards of health. In villages of less than 3000 no definite provision is made for enforcement.

8. Parents or employers violating the labor provisions of the attendance law are subject, for the first offense, to a fine of not less than twenty nor more than fifty dollars; for each subsequent offense, a fine of not less than fifty nor more than two hundred dollars. For making false statements in any

affidavit, record, or certificate, the penalty is, for the first offense, a fine as above; for a second offense, a fine of not less than fifty nor more than two hundred and fifty dollars, or imprisonment for not more than thirty days, or both fine and imprisonment; for any subsequent violation, a fine of not less than two hundred fifty dollars, or imprisonment not to exceed sixty days, or both.

Enforcement of the child labor and attendance laws has reached a relatively high degree of effectiveness in the state of New York. In New York City, under the Bureau of Attendance established in 1914, an elaborate organization for the administration of attendance regulations has been developed. There is an apparent lack of coöperation on the part of the officials charged with the enforcement of the child labor laws, as has always been the case in this state, but with the perfection of its follow-up system and a census properly amended from day to day, the bureau should be able to keep in touch with the child from the moment he is of school age until the statutes no longer require his attendance at school or restrict his employment. Each day the Department of Health sends to the Attendance Bureau the names of all children to whom employment certificates have been issued. It then becomes the duty of the bureau to see that such children are either at work or in school.

It cannot be said that the record of attendance in New York City is satisfactory. There has been a serious falling off in the percentage of attendance based on net enrollment within the last three years.[180] This can be accounted for in part by serious epidemics, including infantile paralysis and Spanish influenza, which have swept over the city, in part by the coal famine, by a shortage in teachers and by lack of housing facilities.[181] Other disorganizing elements doubtless enter into the situation, which is an exceeding complex one.

The operation of the permanent census law has been a disappointment to friends of the measure who saw in it the possibilities of a perfected system of child accounting. When

180. The percentage of attendance upon enrollment in 1906 was 89.5; ten years later it was precisely the same. *First Report Bureau of Aattendance*, p. 58. According to unpublished data, it dropped to 77.8 in 1919, reaching 78 in 1920.

181. See *Second Report, Bureau of Attendance*, p. 21.

first enacted it fell into the hands of its enemies.[182] Later its execution was entrusted to the newly created Bureau of Attendance, whose officers clearly realized the importance of this instrument in the successful accomplishment of their task. The initial cost of an accurate census in a large city is great and the amount of labor involved is quite beyond the realization of the layman. After it has been taken the census rapidly loses its value unless kept up with absolute fidelity. This requires faithful, constant service and considerable financial outlay. The Board of Education has not been generous in its askings in support of the census and the Board of Estimate has declined to appropriate even that which has seemed to the educational authorities absolutely essential. As a consequence the census has not been kept up and several thousand children are reported "not found."[183]

The Bureau of Attendance is apparently securing a higher degree of coöperation from teachers and principals than they gave in the troubled days of Associate Superintendent Shallow,[184] yet the conditions which perplexed and irritated the administrative officers a decade ago have not entirely been overcome.[185] Relations with the courts have improved within recent years. Formerly, parents and children violating the attendance laws were taken before the magistrates of the police courts, the results usually being most unfortunate from the standpoint of the enforcing officers.[186] Later, cases in which children were involved were heard in the Domestic Relations Court where the judges, while still reluctant to penalize the offending parents, were interested in the work of the Bureau and gave its cases sympathetic hearings.[187] In the year 1916 the Municipal Term Court was organized as a court before which might be brought all cases in which a city department or bureau was the complainant, and except in Brook-

182. *Supra*, p. 148.

183. *Second Report, Bureau of Attendance*, pp. 92, 93, 94, 268.

184. *Supra*, p. 144.

185. *First Report, Bureau of Attendance*, p. 45; *Second Report*, p. 19.

186. *Supra*, pp. 142, 145.

187. *First Report, Bureau of Attendance*, p. 120. The records show that only eight per cent of the cases brought against parents resulted in conviction.

lyn all prosecutions for violations of the attendance laws have since been assigned to this court.

Other elements remaining fairly constant, the number of prosecutions indicate the vigor with which a law is enforced. It is significant that since the creation of the Bureau of Attendance the number of prosecutions for violation of the law has risen steadily.[188] The following diagram presents in graphical form the record of prosecutions over a score of years.

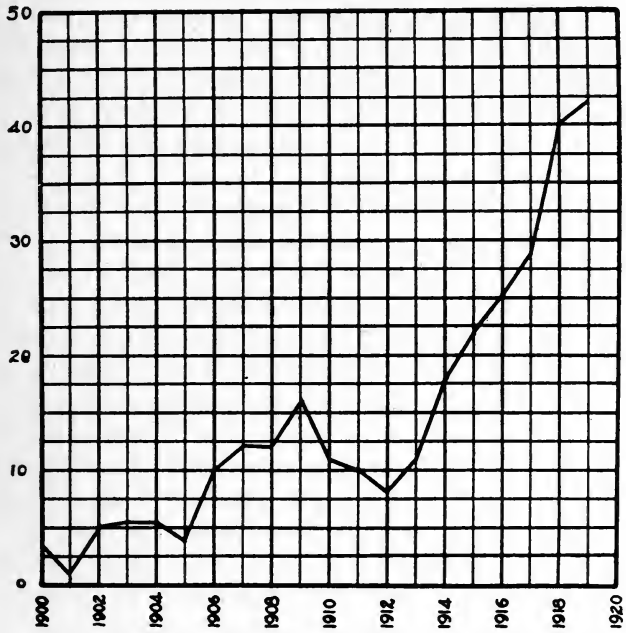

Diagram 1. Ratio of prosecutions for violation of attendance laws in New York City to net enrollment in public day schools. For convenience the number of prosecutions is indicated in *tenths per thousand of enrollment.* For example, in 1906 there was one prosecution for each one thousand of the net enrollment. The enrollment in parochial schools — nearly one-seventh of the grand total — is not included. It is probable that its inclusion could not greatly affect the curve.

The Attendance Bureau conducts a court of its own before which truant children and others who for various reasons have

188. *Second Report, Bureau of Attendance,* pp. 25-28. In 1914, the last year under the former method, there were 956 prosecutions; in the year ending with July, 1920, there were 4,006.

been absent from school are brought, together with their parents, for hearings. There are many thousands of such cases annually. The cause of absence is sought, medical attention is given when necessary, the duty of regular attendance is painstakingly explained to parents who very frequently can speak no English, and only in exceptional cases is resort had to the regular courts.[189] As one result of this preliminary hearing and the careful sifting of cases, charges finally brought against parents or incorrigible children are usually sustained.

In the state as a whole the effectiveness of enforcement varies, as might be expected in any system of administration in which ten thousand or more local centers must be depended upon to carry out the laws. Various factors in addition to the multiplicity of officials contribute to lack of uniformity in results, among them being the complexity of the laws themselves, which, in the process of their evolution, have grown exceedingly intricate and unnecessarily confusing.[190] Frequent changes have made it difficult for untrained officials to know just what they are legally required to do; even those who should be reasonably expert stumble hopelessly over some of their duties.[191]

It seems clear, also, that many of those whose duty it is to enforce the laws are not in sufficient sympathy with them to give the coöperation absolutely essential to efficiency. This is true not only of judges who place themselves superior to the law but of officials who ignore some of its simple and definite provisions.[192] There can be no doubt also that enforcement will remain in a more or less confused state until central authority directs more closely the administration of employment certificates. Apparently sufficient power is already lodged in the Industrial Commission, but thus far supervision of this

189. *Ibid.*, pp. 28-29. One who spends an afternoon in this informal court gains two very definite impressions: first, that the officers are seeking to secure the willing and intelligent coöperation of both delinquent children and their parents; second, that the problem of Americanization in this city is, in no small degree, a problem of the mastery of the English language.

190. *U. S. Dept. of Labor, Children's Bureau,* Pub. No. 17, 1917, p. 111.

191. *Supra,* p. 151.

192. *U. S. Dept. of Labor, Children's Bureau, op. cit.,* pp. 93, 99, 104.

important preliminary to the employment of children has been but nominal.

The laws themselves, besides being cumbersome, fail as yet to include certain features which are necessary for the most efficient administration.[193] For example, an employment certificate, once issued, becomes the property of the child. He may present it to an employer and go to work, or he may loaf on the streets with it in his pocket. If after a period of employment he stops work, he may claim his certificate and either present it elsewhere or remain idle as he chooses; only the unguided vigilance of the attendance officer will return him to school unless he elects to resume his studies.[194] Again some sections of the child labor laws are so drawn as to render enforcement exceedingly difficult. The mercantile law, except as it applies to cities of the first and second classes, is an illustration.[195]

But when it is recalled that legislation of enforceable character for the protection and schooling of children in this state is largely the product of the present century, the relatively high standards attained both in the laws and their administration become significant. More than one hundred fifty inspectors, representing the Industrial Commission, have practically eliminated illegal child labor from the larger factories, and have greatly restricted it in mercantile establishments in the larger cities. The state program of compulsory education is as promising as that in any other state in the Union. It would seem, also, that in no one of the larger states has the

193. That the local boards of health should be required to issue working papers is an illustration of inertia. It has long been recognized that this practice, set up in 1896, was an unwarranted one. The boards of health are not interested except so far as the physical condition of the children is concerned, they have no contact with the industry into which the applicant is going and they never hear of the child, officially, after he leaves the examination room, unless he returns for another certificate. The examination as to literacy is still required by law, but probably rarely given. One head of a city health department, on being interviewed, stated that he always gave the examination, or had it given. He hands the applicant a slip of paper on which is typed the sentence, "George Washington was the first president of the United States." If the child can copy this sentence and read it, he passes.

194. The law establishing continuation schools provides that on termination of employment the certificate shall be mailed immediately by the employer to the school authorities. So far as observed this injunction is not obeyed.

195. *Supra*, p. 162.

central educational authority gone further in standardizing school attendance regulations.[196]

Gradually the authority of the State has been extended until now it is able not only to influence education but to compel legal requirements. The Department of Education was given power in 1894[197] to withhold half the public funds from any district failing to enforce the compulsory attendance law. This power the Department has not hesitated to exercise, but only as a final resort. The ideal of the department in the administration of this law, as expressed through the chief of its Division of Compulsory Attendance, has been that of coöperation rather than force. No effort has been spared to gain the confidence of school officials throughout the state, and to let them know that the department is squarely backing them in law enforcement. Inspectors of the Attendance Division are busy among the schools, and on occasion the chief himself goes to a particularly difficult field to assist local authorities in enforcing the law. Much attention is now given the parochial schools, these being amenable to the attendance laws if children of the compulsory school age are registered in them. A great deal has been done for these schools, which, in many instances were "alien in language, sentiment and purpose," before coming under the supervision of the state.[198]

The most intimate point of contact between the State Department of Education and the schools is in a system of monthly reports made by the latter. Each month transcripts of more than 14,000 registers are filed by the schools with the Attendance Division. By means of these reports it is possible for the staff to locate districts in which attendance is unsatisfactory. Correspondence usually follows, and if later reports do not show improvement a visit is made by one of the inspectors. Usually proper adjustments are made, but as a final resort the offending community is penalized by withholding state funds.

196. Pennsylvania is now attempting a somewhat similar method of supervising attendance.

197. *Laws of 1894*, ch. 671.

198. *N. Y. School Report*, 1914, p. 410. Since 1917 two or three of the inspectors best adapted to such service have given most of their time to the "foreign language" schools. It is peculiarly unfortunate that just as results are beginning to appear, the legislature, in its zeal to economize, should deem it necessary to reduce by one-half the staff of field workers.

"This is the 'big stick,'" writes Chief Sullivan, "that, when wielded, has never failed to bring results."

It should not be difficult for New York to still further centralize her system of education and through adequate supervision and inspection to secure practically complete enforcement of the attendance laws. The state already exercises extensive authority in certain phases of education, apparently without impairing local interests or initiative. In her statutes she has expressed the desire not only to provide for every child within her limits an opportunity to secure an education adapted to his needs, but to require that he accept that opportunity, at least in so far as to remain under educational influences until well through the period of adolescence. It remains for her to perfect the organization by means of which this desire may be realized.

CHAPTER VII

PENNSYLVANIA

Pennsylvania was among the last of the northern states to provide by compulsory laws for the education of her children. Like New York she delayed the establishment of free public schools until near the middle of the nineteenth century, meantime offering to such poor children as wished to accept it an inferior schooling as a public charity. The state was also late in offering adequate protection to her youth in industry.[1] Perhaps no other state has been so sharply criticized, and not without cause, for the extent to which children were permitted to labor and for the character of employment left open to them. Yet to-day, Pennsylvania ranks among the most progressive states in the character of legislation for the protection, education and industrial training of children.

Universal education was legally established in 1848, when public schools, open and free to poor and rich alike, were made compulsory in all parts of the state. But the battle for the principle of public education was won more than a decade earlier under the leadership of Governor George Wolf.

The common school fund was established on a fairly generous basis in 1831, and in that year Governor Wolf began the fight which, while it resulted in his political overthrow, gave the state a system of free common schools. The Pennsylvania Society for the Promotion of Public Schools, organized in Philadelphia in 1827, had carried out an effective program of investigation and publicity, in which it exposed the inefficiency of the pauper school law in reaching even the small class it was supposed to benefit. It appeared that in many cases county officials were deliberately excluding from school children who under the law were entitled to free tuition, and that, even

1. Pennsylvania's first child labor law was enacted in 1848. Only four states had preceded her in such legislation. The measure of that year was of little value, and not until 1889 was any real protection given to children.

where the law was faithfully carried out, results were not satisfactory.[2] The governor, on first interesting himself in the question, did not go so far as to ask for a complete public elementary school free to all classes but urged only that the constitutional requirements be met and that all indigent children in the state be given the rudiments of learning.[3] But in 1833 he pushed the principle to its logical conclusion and made universal education the leading topic in his annual message. His proposal for a more adequate school system was well received both by the legislature and by the people in many parts of the state. The legislature was further stimulated by numerous memorials asking for favorable consideration of a public school system; a joint committee was created, headed by Senator Samuel Breek,[4] and instructed to report a bill for a general system of education. After a careful investigation of other state school systems, a needlessly cumbersome bill was presented and passed with but a single dissenting vote.[5] Free schools were not made compulsory by this measure, but each district might elect to establish such schools, provide for a school tax, and share in the state funds, or it might sacrifice its share of the state fund and continue under the pauper law of 1809.

Strangely enough, considering the practically unanimous action of the legislature, the law was hotly resisted from the first, especially in the districts predominately German.[6] The

2. Wickersham, *Hist. of Ed. in Penn.*, p. 299.

3. *Ibid.*, p. 296.

4. Senator Breek who wrote the bill and was influential in securing its passage, was a former citizen of Connecticut and brought with him to Pennsylvania something of the educational ideals of New England.—*Penn. Mag. of Hist. and Biog.*, Vol. XXXVII, p. 78.

5. *Laws*, Act of April 1, 1834.

6. Wickersham, *op. cit.*, p. 319. The German Lutheran Church in Pennsylvania had stoutly resisted from the beginning any form of education that threatened to substitute English or American influences for German. Many of the German immigrants prior to the Revolution were very poor and relatively ignorant. Church schools were unable to meet the educational needs and an effort was made to bring the children into schools supported by philanthropy. Unfortunately the movement was designated by the offensive title, "The Charitable Scheme to Educate the Poor Germans." It was supported by English money (See Weber, *The Charity School Movement in Colonial Pennsylvania*, 1905, p. 22) and no doubt was an attempt to educate the children away from their native language and customs, in the belief that by so doing an intelligent and loyal citizenship might the more readily

Rev. Henry A. Muhlenberg became spokesman for the opponents of the law, and entered the gubernatorial campaign as a candidate against Governor Wolf.[7] He succeeded in dividing the Democratic vote, thus insuring the election of Joseph Ritner, who fortunately proved to be as fearless a champion of free schools as was Governor Wolf himself. The next legislature was confronted with 580 petitions signed by 31,989 citizens, asking for the repeal of the law, while the names of but 2083 were presented remonstrating against the repeal.[8] The Senate voted by a large majority for repeal, but by skillful manipulation in the House and through the powerful influence of Thaddeus Stevens, the most important provisions of the law were saved and the foundation of a free school system assured.[9]

Doubtless the schools suffered at first for lack of expert direction, and the advance towards a free tax-supported school, compulsory upon all districts, was probably slower than it would have been under wise professional leadership.[10] But adoption of the new system proceeded quite rapidly after the first year, and in 1837 three-fourths of all the districts outside Philadelphia and Lancaster were coöperating, double the number of children formerly attending were in school, while

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be established. The movement was resisted vigorously by the church which, in 1786, introduced in its litany the following paragraph:

"And since it has pleased Thee, chiefly by means of the Germans, to transform this State into a blooming garden, and the desert into a pleasant pasturage, help us not to deny our nation, but to endeavor that our youth may be so educated that German schools and churches may not only be sustained, but may attain a still more flourishing condition." *Allgemeines Kirchengebeth; Kirchenagende der Evangelisch-Lutherischen Vereinigten Gemeinen in Nord-America*, pp. 4ff. See Kuhns, *German and Swiss Settlements of Colonial Pennsylvania*, p. 117.

7. Mr. Muhlenberg, in making opposition to the free school law the basis of his campaign, said of his German constituency in a letter to the workingmen of Philadelphia, "The Germans of our state are not opposed to education as such, but only to any system that to them seems to trench on their paternal and natural rights.—Kuhns, *op cit.*, p. 149.

8. *Penn. Mag. of Hist. and Biog., op. cit.*, p. 79.

9. *Ibid.*, pp. 81ff, also P. L., 1876, No. 166.

10. Under the law of 1834, the Secretary of State was made, *ex officio*, Superintendent of Common Schools, an arrangement not unusual in the earlier years of the state school systems. The practice continued in Pennsylvania until 1857. Commenting on the professional character of the first six superintendents, Wickersham says: "All of these gentlemen were distinguished lawyers and politicians."—*Hist. of Ed. in Penn.*, p. 357.

the actual expense *per capita* of instruction was decidedly less than under the old system.[11] By 1847 all but 144 districts had voluntarily adopted the state system, and the following year the law was made general and each community was legally obligated to maintain a free public school.[12]

As early as 1844 the superintendents began to discuss the evils of irregular attendance upon the schools, and in their official reports the subject in its various aspects receives a good share of attention.[13] The indifference and neglect of parents is frequently deplored, one superintendent poetically observing:

"Where no sheaves have been gathered in the stubble of learning, the refreshing influence of the speechless dew will not be perceived."[14]

None of the superintendents advocated compulsory attendance; probably the political scars from the battle for compulsory schools were too fresh for that. Mostly, they deal in meaningless generalities, but Superintendent C. A. Black, while not definitely recommending legislation, faces the issue squarely, saying:

"The children of the Commonwealth are public property, and the government, as a faithful guardian, cannot discharge the trust without preparing them for the rights and duties of citizenship."[15]

Meanwhile the labor interests had been seeking to gain some legal concessions for factory children, but without success. After considerable agitation the Senate, in March, 1837, directed a committee to gather facts relative to the employment of children and report at the next session. The following summer hearings were held in Philadelphia and Pittsburgh, and a report was presented on February 7 of the following year. The committee found that in the textile industries, where working conditions seemed least favorable, one-fifth of all employees were under twelve years of age, and one-twentieth under ten.

11. *Rpt. Supt. Com. Schs.*, 1837, pp. 35, 46.

12. *Laws*, 1848, No. 227. A few districts disregarded the law. As late as 1868, twenty-three districts representing six thousand children had no school in operation. The last district yielded in 1873.—Wickersham, *op. cit.*, p. 369.

13. *Rpt. Supt. Com. Schs.*, 1844, p. 7.

14. *Ibid.*, 1848, p. 12.

15. *Rpt. Supt. Com. Schs.*, 1853, p. 15.

Parents, it was found, were often eager to secure places for little children under seven. The hours were long, eleven, twelve, sometimes fourteen per day; there was, of course, no opportunity for schooling; and the moral condition was not satisfactory. The committee had satisfied itself that it was neither desirable nor profitable for young children to labor in factories, and they therefore submitted a bill for a law intended to exclude from such employment all under ten years of age, to require at least three months schooling annually for all children employed but not able to read, write, and keep accounts, and to limit the hours of daily employment for all under sixteen to ten. The bill was presented at an unfortunate time, during the financial and industrial depression of 1837-1838, and received little attention.[16] Bills of various kinds looking to better conditions for working children were presented at intervals, showing a growing interest in the questions involved, but in 1848 there was unusual activity. Just what forces were back of the movement is not now known, as the papers of the period are silent on that point.[17] But on March 27, a law was enacted, which excluded from textile factories all children under twelve years of age and made ten hours the legal working day for those under sixteen, with a proviso that those of fourteen or above might be employed for a longer period on special contract with the parent or guardian.[18] The penalty upon the employer for the violation of the law was fifty dollars, with the unique provision that one-half the sum should go to the child employed. There was no educational clause, means of enforcement were lacking, and the measure was satisfactory to no one.[19]

The following year, by a most extraordinary bit of legislative jockeying, the law of 1848 was repealed and another enacted raising the age limit for employment in textile, paper, and bagging factories to thirteen, requiring that those under sixteen might not be compelled to work more than ten hours in one day and forbidding the employment of any protected

16. Barnard, *Factory Legislation in Penn.*, 1907, pp. 15-17.
17. Barnard, *op. cit.*, p. 49.
18. *Laws*, 1848, No. 227.
19. See Barnard, *op. cit.*

person for a longer period than nine months unless he had attended school for at least three consecutive months within the same year.[20] The system of penalties for the violation of the several provisions of this law was peculiar and in itself sufficiently cumbersome and indefinite to encourage non-enforcement. Parents and guardians permitting children under thirteen to work in the forbidden industries and those "willfully and knowingly" employing them were subject to a fine of fifty dollars. Parents and guardians alone were liable to such fine for permitting a child to work for more than ten hours, and employers alone for failure to see that the schooling requirement had been met. Half the fine was to go to the person bringing suit and half to the county. Some minor changes were made in the law in 1855,[21] but they gave it little strength, and apparently it was never enforced. Employers were even unaware of its existence,[22] and it lay upon the statute books inoperative for forty years.[23]

The educational provisions of the child labor law seem not to have interested school officials. One State Superintendent mentions it,[24] but does not suggest legislation to render coöperation possible. There was evidently no wish to inaugurate compulsory attendance, even of the indirect type of the child labor act. The schools were inadequate for the proper accommodation of the children who attended voluntarily. Material equipment was insufficient,[25] and teachers were untrained, incompetent, and sometimes uncouth.[26] It was not

20. *Laws*, 1849, No. 415.

21. *Laws*, 1855, No. 501.

22. Barnard, *op. cit.*, p. 23f.

23. In 1889, a workable law was enacted and factory inspection inaugurated.

24. *Rpt. Supt. of Com. Schs.*, 1857, p. 69.

25. State Superintendent Wickersham, in his first annual report, 1866, p. viii, presents a brief survey of the school buildings of the state; a summary follows:

Total number of school buildings	11301
Number unfit for use	1848
Number lacking outbuildings	4545
Number lacking adequate grounds	6210
Number lacking proper or sufficient furniture	5888
Number wholly without apparatus	1847

26. A teacher is described by a superintendent who saw him at work as "without coat or jacket, his pantaloons low down on his hips, and, worse than all, barefooted."—*Rpt. Supt. Com. Schs.*, 1857, p. 18.

possible to urge compulsory attendance until the educational facilities could be improved.

Superintendent Wickersham realized that the question of irregular attendance and absenteeism must be faced presently. In his report of 1867 he mentions it, not, he says, for the purpose of suggesting a remedy, but in order that an inquiry as to its cause and cure may be started. As a preliminary step to such an inquiry he suggests that legal provision be made for a school census.[27] It was known that many children were growing up without school advantages; Mr. Wickersham estimated that the number would reach 75,000, an estimate fairly well sustained by the figures published a few years later by the Bureau of Industrial Statistics.[28] Reluctantly Dr. Wickersham came to the conclusion that the only way to stem the tide of ignorance in Pennsylvania was by sharp, decisive law. However, like Horace Mann in Massachusetts a generation earlier, he feared compulsory attendance laws as being out of harmony with the American idea of democracy. He realized also, as one of the keenest students of education in the State, that the people would not at that time sympathize with the enforcement of such measures. He regarded the compulsory legislation of Massachusetts as unsuccessful, saying:

"The experience in Massachusetts teaches us that we in Pennsylvania must look in some other direction than that of a compulsory law to find the remedy we are seeking for the evil of non-attendance at school."[29]

He recognized the tendency towards state control, however, saying:

"If society cannot be so improved as to make parents, and those who have the care of children, feel the importance of sending them to school, and sending them regularly, the time will surely come when the State will pass a law compelling such attendance. I prefer to test voluntary action fully, fairly, and patiently, before resorting to fine."[30]

But by 1873 Dr. Wickersham was advocating a compulsory attendance law, the child to be taken from the parent who re-

27. *Ibid.*, 1867, p. ix.
28. *Rpt. Bu. of Indust. Stat.*, 1873, p. 101; 1874, p. 532.
29. *Rpt. Supt. Com. Schs.*, 1871, p. xxvi.
30. *Ibid.*, 1870, p. xiii.

fused to comply with it, and educated in county or district homes provided for the purpose, the parent, if financially able, paying the necessary expenses.[31] Such a measure would be quite different, Mr. Wickersham held, from the undemocratic compulsory education of Europe, but would be "a kind of compulsory education in consonance with our American ideas of the functions of republican government and the sacredness of the family relation."[32]

Throughout the period of his service as State Superintendent of Public Instruction, Mr. Wickersham continued to discuss the evils of non-attendance. He was unable to give anything more satisfactory than estimates as to the number of children out of school but was sure conditions were not improving and that legislative action had become necessary. He framed a bill intended to provide for the maintenance and education of poor and neglected children, thousands of whom were now to be found in the county almshouses, but it could muster barely eighty votes in the House.[33] His successor, Mr. E. E. Higbee, dropped the fight Mr. Wickersham had been waging, saying in his first report, "We have very serious misgivings as to the propriety of any strictly compulsory law and are unwilling at this time to urge the passage of any such law upon the legislature."[34] Later, as he became more familiar with conditions, he accepted the principle of state interference.

In 1885 the employment of children had been restricted in and about coal mines,[35] but no legal authority could bring them, thus released from work, into the schools. In 1886 the chief of the bureau of industrial statistics, J. E. McCamant, gave considerable attention to the working and educational conditions of children, examining available statistical matter, making many personal inspections, and gathering data through

31. *Ibid.*, 1873, p. xxiv.

32. *Ibid.*, 1874, p. xiii. It is difficult to distinguish between the undemocratic compulsory education to which Dr. Wickersham objects and the form which he is willing to admit as in harmony with American ideals.

33. *Rpt. Supt. Pub. Inst.*, 1880, pp. xvii, xix.

34. *Ibid.*, 1881, p. xi.

35. *Laws*, 1885, Nos. 169, 170. No boy under twelve, no woman or girl of any age, was to be employed in bituminous coal mines, and no boy under ten, and no woman or girl, in or about the outside structure or workings, while in and about anthracite mines the age limit was two years higher.

responsible agents. According to the census of 1880, 72,441 children between ten and fifteen years of age were employed in the state. Mr. McCamant contended that at least 125,000 children of the ages indicated were employed. False returns had been made, he thought, by both parents and employers. He himself had found children only seven years of age in factories after having been assured by the management that none under thirteen were employed. He held that not less than 200,000 children were growing to years of maturity in ignorance. "If the privilege of education is refused," he said, "the general safety requires that it be made compulsory."[36]

By the last quarter of the nineteenth century, labor everywhere had grown much more powerful. Its program in nearly all the northern states had come to include a demand for enforceable laws restricting the labor of children and providing for their education. In 1887 there was an active campaign for effective legislation in Pennsylvania. A law was passed which prohibited the employment of children under twelve in any mill, manufactory, or mine.[37] The measure was somewhat broader than that which it displaced, though it was not enforceable and probably was not intended to be. Barnard says of it, "After so many years of trial, in which the utter worthlessness of such laws had been demonstrated, one does not know whether to charge the legislators with stupidity or insincerity."[38]

The forces in favor of stronger protective measures for children, stimulated rather than discouraged by their partial failure in 1887, effected a strong organization and again went before the Assembly in 1889. Though opposed by a powerful and skillful lobby, a law was secured which, although unsatisfactory in many respects, was provided with some of the machinery essential to enforcement.[39] Its most important provisions were:

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36. *Rpt. Bu. Indust. Stat.*, 1886, pp. 38-50. It is instructive to observe that the pressure which resulted at last in a compulsory attendance law came largely from forces not in direct connection with education.

37. *Laws*, 1887, No. 172.

38. *Child Labor Legislation in Penn.*, p. 54.

39. *Penn. Laws*, 1889, No. 243.

1. No child under twelve was to be employed in any factory or mercantile establishment employing ten or more women and children.[40]
2. No minor was to be employed for more than sixty hours in one week.
3. Employers were required to keep a register containing the name, birthplace, age, and residence of each employee under sixteen.
4. The statement of age and date and place of birth was to be supported by the affidavit of parent or guardian, or if none, by the child himself.
5. The governor was directed to appoint a factory inspector who in turn was to appoint not more than six deputy inspectors, half of whom were to be women. The inspectors were given authority to visit and inspect all shops and factories employing women and children, to enforce the act, and to prosecute in case of violation.

This measure was obviously faulty. Proof of age was entirely inadequate; nothing was said about education; it did not protect children in mines; the great numbers of small factories and mercantile establishments were left free to employ a child of any age; the number of inspectors was not sufficient. But the law had within it possibilities of development, and it may be regarded as a step forward in the protection of childhood. The inspectors went to work at once, and while there were difficulties in enforcement, many children under twelve were found and dismissed. There were others clearly under age but certified by parents as twelve or more who could not be dismissed without first proving that the affidavit was false, a very difficult thing to do.[41] The courts and prosecuting attorneys were very tender with employers. It was extremely difficult for an inspector to get a case before the court. and when he succeeded in doing so he was often made to feel that the judge was unfriendly to the law. Not infrequently cases were dismissed for lack of evidence, even when the testimony as to the violation of the law was positive and clear.[42] Yet the law was enforced in a sufficient number of

40. The law of 1849 forbade the employment in textile mills of children under thirteen, but as it was never enforced the dropping off of one year can scarcely be called a backward step.

41. *Bu. of Indust. Stat.*, 1891, E, p. 83.

42. *Ibid.*, 1892, F, pp. 4, 5, 8.

cases to bring upon the inspectors the criticism of excessive severity, though at the same time labor unions were accusing them of being too lenient, even derelict in their duties.[43] These criticisms indicate that the law was being administered with some regard to industrial and social conditions.

Attempts were made to bring all children below the legal working age into the schools. In the decade, 1880 to 1890, the population of the state had increased nearly 25 per cent, in the cities almost 43 per cent, but the increase in school attendance had been but 11 per cent.[44] Superintendent Waller assumed a much more positive attitude toward compulsory attendance than had his predecessors in office. He urged that Pennsylvania join the twenty-seven states and territories already making some compulsory provision for education, saying, apparently as a climax to his argument, "Even Wisconsin, though she repealed the Bennet law, is to-day compelling the attendance of all children of school age."[45] Superintendent Schaeffer, who in 1893 began his long career as head of the public school system, was not at first favorable to a compulsory law. Like Superintendent Wickersham, he held that public sentiment should first be made favorable to such legislation. Like him, also, he urged a school census in order that it might be determined how many children were actually out of school and what obstacles must be removed to secure their regular attendance.[46] He also regarded it as impracticable to compel children to attend school in such quarters as still served many districts for school houses: "To speak of forcing children into such school rooms and surroundings by a compulsory law makes one think of Herod, who slaughtered the innocents at Bethlehem."[47] He held that there were economic conditions which would prevent the successful enforcement of such a law and cautioned against measures which would keep boys, who eventually must be wage-earners, too

43. *Ibid.*, p. 4.

44. *Rpt. Supt. Pub. Inst.*, 1891, p. x.

45. *Ibid.*, 1892, p. viii. In 1891 and 1893 compulsory attendance bills had passed both houses but were vetoed by Governor Robert E. Pattison.

46. *Rpt. Supt. Pub. Inst.*, 1893, p. vii.

47. *Ibid.*, 1894, p. iv.

long out of the industries,[48] but suggested the modification of the child labor law so as to require three or four months schooling each year for all working children under fifteen.

However, the movement toward compulsory school attendance was under way, and on May 16, 1895, a law was passed requiring children between the ages of eight and thirteen to attend school for at least sixteen weeks each year.[49] The measure was amended in 1897,[50] requiring that attendance should begin at the opening of the term unless otherwise ordered by the board, providing for a more careful enumeration of pupils,[51] extending the upper age limit to sixteen, unless the child was thirteen and regularly employed, and extending the annual term of required attendance to 70 per cent of the school year.

Enforcement of the compulsory attendance law was left wholly to the local boards. On the whole its reception by school officials was cordial,[52] such opposition as developed being local rather than general. Certain farming communities were openly hostile. They maintained that they must not be

48. Compare with argument in Connecticut, in 1885, *supra*, p. 101.

49. *Laws*, 1895, No. 53. Gov. Daniel H. Hastings prefaced his signature to this bill by a lengthy explanation, as if to shift responsibility for what he evidently believed to be, at the best, doubtful legislation. He said:

"By giving my approval to this measure, there will appear upon our statute books for the first time in the history of the Commonwealth a compulsory educational law.

"The General Assembly in the sessions of 1891 and 1893 passed a compulsory educational act somewhat similar to the present measure, each of which met with executive disapproval. There appears to be throughout the Commonwealth a general desire for such a law. I have not received a single protest from any citizen against the bill so far as I recollect. The unanimity with which it was passed by the Legislature as well as the large number of requests made upon me to sign it, clearly indicate the general desire on the part of the people for a compulsory educational law. Under the conditions, I am convinced that I should not obtrude any individual judgment which I may have on this question of public policy. The measure provides for compulsory education in perhaps the least objectional form to those who oppose it on principle, and offends as little against the personal rights of the citizen as possible. I, therefore, approve the bill, but, if by experience, the expectations of the people are not realized, future legislation will doubtless meet their demands."—P. L., 1895, No. 53.

50. *Laws*, 1897, No. 248.

51. In 1896, after twenty-five years of urging by school authorities, a school census was provided for. It was not adequate, nor has a complete school census, state-wide in scope, as yet been established.

52. *Rpt. Supt. Pub. Inst.*, 1897, pp. 17, 19, 42.

deprived of the services of their young children in the labor of home and farm, and more particularly they resented interference by the state in what they regarded as their parental rights. Superintendent Schaeffer, commenting upon this, said: "A quarter of a century ago similar sentiments were heard from the lips of prominent school officials and were applauded at educational meetings. To-day, very different views prevail." Again, "The argument used to justify farmers for not complying with the law will sound strange in the next century."[53]

Meanwhile, some advance had been made in child labor legislation. The number of forbidden industries had been increased;[54] the lower age limit was advanced from twelve to thirteen, and the law was made to apply in all establishments employing five women or children, instead of ten, as formerly.[55] The maximum working day was increased at this time from ten hours to twelve, but the week was to be no longer than sixty hours. These changes were in the line of progress or ease in enforcement, and were based on recommendations growing out of the actual administration of the law. The inspectors, now increased to twelve besides the chief, were more nearly able to cover the field, and few children without the required evidence of age were found. It was clear to the field workers, however, that many no more than ten or eleven years old were holding such papers. Not only were parents swearing falsely to secure employment for their children, but notaries were issuing certificates to those under the legal age simply for the small fees obtainable.[56] As a safeguard against the lying affidavit, the chief inspector urged that certificates of age be issued by the school authorities. This degree of coöperation between industrial and educational forces was not to be reached until 1905, but in 1897 it was provided that all children between thirteen and sixteen not able to read and write in the English language should attend some school six-

53. *Ibid.*, 1898, p. iv.

54. *Laws*, 1893, No. 244; *Laws*, 1897, No. 148.

55. All restrictions as to the number of persons to be employed in order to bring an establishment under the law were dropped in 1897.

56. *Rpt. Fac. Insp.*, 1894, p. 9.

teen weeks each year before they could be employed in the restricted industries. As evidence of school attendance the illiterate youth was to present a certificate signed by a teacher stating that the attendance requirements had been met. Such was the beginning of legalized coöperation between school and industry in this state, not extensive, to be sure, and to be temporarily abandoned in 1901, yet giving some promise of future development.

The various laws intended to protect children were far from ideal at the close of the century. Illiterate children might now be forced from the shop, factory, and store, but if over thirteen they could not be required to attend school. Any boy of twelve might legally be employed in the bituminous mines and while some of the illiterates dismissed from illegal employment entered schools, others took places in or about the mines.[57] But comparisons, now possible through the records of the factory inspector, give evidence of progress. In 1890 ten per cent of the employees of establishments subject to inspection were children under sixteen years of age. At the close of the decade, less than five per cent were under sixteen. Many establishments had given up employing children because of the trouble in keeping the required register and looking after age and attendance certificates.[58]

In the year 1901 the legislature undertook to make some alterations in the compulsory attendance law of 1895, already rendered somewhat confusing by amendments.[59] The attorney general ruled that this law repealed all the previous legislation, thus clearing the field and simplifying administration.[60] The more important provisions of the new law were as follows:

1. All children between eight and thirteen years of age were to attend, for the entire session, some school where the common English branches were taught; all between thirteen and sixteen were to so attend unless able to read and write English intelligently, and regularly employed.
2. Exemption from the penalties of the law might be granted to those who lived more than two miles from a school and

57. *Rpt. Fac. Insp.*, 1899, p. 5.
58. *Ibid.*, 1900, p. 7.
59. *Laws*, 1901, No. 335.
60. *Rpt. Supt. Pub. Inst.*, 1901, pp. vii, viii.

to those who were prevented from attending by "mental, physical, or other urgent reasons." School boards were authorized to reduce the period of compulsory attendance to not less than seventy per cent of the full session of the public schools.

3. The penalty upon teacher or parent for failure to carry out the provisions of the law was, for the first offense, a fine of not over two dollars or a jail sentence of not to exceed two days; for subsequent offenses the fine was not to exceed five dollars and the prison sentence was not to exceed five days.

4. Attendance officers were required in city districts, and permitted elsewhere.

5. Enforcement was left entirely to local school authorities, but the state superintendent was given power to withhold one-fourth of the state appropriation in case any district failed to enforce the law.

In the same year the child labor law was subjected to changes not, on the whole, in the direction of progress.[61] The slight connection with the schools made in 1897 was discontinued, and instead of the schooling certificate signed by a teacher formerly required of illiterates between thirteen and sixteen, the issuing officer was to examine all applicants for working papers as to ability to read and write.[62] Naturally, the examination was a farce. If the child could stumble through a simple selection such as a third grade child should handle with ease, and then sign his name to the application, the requirement of the ability to "read and write simple sentences in the English language" was regarded as met, and a certificate was issued, provided the child was able to pay the twenty-five cents which the wretched system required.[63]

Though it was generally understood that politics had entered very definitely into the child labor situation, the field work was carried forward with increasing vigor. Employers, aldermen, and notaries had been prosecuted and fined for infraction of the law,[64] and nearly 3000 children in a single year had been found illegally employed and dismissed.[65] In

61. *Laws*, 1901, No. 206.

62. Certificates could be issued by magistrates, aldermen, justices, and notaries.

63. Barnard, *Fac. Leg. in Penn.*, pp. 97, 147.

64. *Rpt. Fac. Insp.*, 1902, p. 10; 1903, p. xii.

65. It is reported that 65 per cent of all the children between thirteen and sixteen at work in the restricted industries in 1903 were employed illegally, mostly with faulty certificates or with none at all. *Ibid*, p. iv.

1903 Mr. J. C. Delaney was made Chief Factory Inspector. At once he instituted an inquiry to determine the extent of illegal child labor in the state. He satisfied himself that charges to the effect that the factories and workshops were crowded with under-age children had been made without much basis. Of 3243 children found illegally employed in 1904 only 180 were under thirteen. A large proportion of the violations discovered was due to the inadequate system of employment certificates in use, and he prepared a bill to advance the requirements which he proposed to lay before the legislature for approval.[66] But new forces now entered the field. The Pennsylvania Child Labor Committee was organized in 1904, bringing together various interests concerned in the welfare of children. An investigation was made during the summer which revealed the need for closely coöperating child labor and school attendance laws.[67] On the basis of information gathered, a bill was prepared, the most expert legislative drafters available being consulted. It is said that the bill was redrafted twenty-two times in an effort to embody in an enforceable measure the following essential standards:[68]

1. A true age limitation to be established through certificates based on recorded evidence rather than on affidavits.
2. The prohibition of night work for all under sixteen.
3. The protection of children in all commercial and industrial pursuits.

The bill met with strong opposition, even some who were favorable to advance being opposed to certain of its features. The chief factory inspector was not pleased with interference with his plans, and compromises with his forces were necessary, but finally, after a long campaign, the bill, considerably modified, was passed.[69]

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66. *Rpt. Fac. Insp.*, 1904, p. 6. Unofficial investigators report many under age children at work at this time. Example, Kellogg Durland, in *Outlook*, Vol. LXXIV, p. 124ff.

67. *First Annual Report, National Child Labor Committee*, pp. 5, 6.

68. Barnard, *op. cit.*, p. 99.

69. *Laws*, 1905, No. 226. The secretary of the National Child Labor Committee, Professor Samuel McCune Lindsay, then of the University of Pennsylvania, now of Columbia, was very active in the interests of this bill, and by those in intimate touch with the movement was given large credit for its passage.

The law of 1905, though a compromise, was an improvement over the preceding one in the following respects:

1. The minimum age at which a child could be employed was raised to fourteen.
2. Night work for minors under sixteen and for women was forbidden except when necessary to prevent waste of materials.
3. Employment certificates could be issued only by school authorities or a factory inspector.
4. Adequate proof of age and evidence of physical fitness to perform the work proposed was required.

Chief Delaney did not approve the law, though it brought him a salary of $5,000. He had favored the old form of employment certificate issued by magistrates, aldermen, justices, and notaries, even though he himself had found some of these officials notoriously corrupt and had prosecuted them successfully for issuing illegal certificates. He did not like to see the employment certificates in the hands of the school superintendents. "However well this change may have looked in theory," he said, "in practice it has proved a lamentable failure."[70] Some superintendents, he reported, refused to perform their duty because there was no fee; others could not understand the law. During vacation, when the superintendents were not always accessible, the deputy factory inspectors were obliged to neglect their other duties to issue employment certificates. "In some districts the conditions could not have been worse," he said, "had the school officers conspired to obstruct the parents and the employers of children in their law-given rights."[71]

The new law was not well enforced even in the short time it was permitted to remain operative. Notaries, justices, and others began to issue certificates on simple affidavits, exactly as before, nor would they stop until several had been prosecuted by the department of factory inspection.[72] But in October the portions of the law dealing with physical and educational requirements and proof of age were declared unconstitutional,

70. *Rpt. Fac. Insp.*, 1906, p. 14.

71. *Ibid.* Opposition on the part of a certain element to entrusting the issuance of working papers to the educational authorities has been apparent in other states.

72. Barnard, *op. cit.*, p. 146.

first in the anthracite law, later in the factory act.[73] There was nothing for the department of factory inspection to do but to carry forward their work on the old basis. Barnard said:

"The old-time scandalous condition of affairs which prevailed before the new law went into effect is restored. The old lying affidavit, with the accompanying farcical test of the applicant's ability to read simple sentences and write his own name, and with virtually no physical test, is once again in effect."[74]

Chief Delaney at once began to urge early legislation to relieve what was clearly an intolerable situation, taking an occasional thrust at those who had been active in the legislative struggle of 1904-1905 by demanding a "practical" law rather than "rash legislation" advocated by "professional child labor agitators."[75] Doubtless he sincerely desired to keep children out of the forbidden industries, but he understood only the old political methods of securing legislation.

In declaring unconstitutional the educational provisions of the child labor law the courts had struck at the most vital element of legal defense which the state had been painfully erecting between the child and the industrial forces which threatened his proper development. An attempt was made to relieve the situation by authorizing attendance officers to enter any place where gainful occupations were carried on to see if children were illegally employed.[76] The age of required attendance was raised at this time, bringing labor and attendance laws once more into harmony in this particular. The importance of close attention to the enforcement of these laws was urged by the state superintendent of public instruction, but there was no general response on the part of school officials.[77] Truant officers were unwilling to exercise effectively

73. Collett *vs.* Scott, Oct. 13, 1905; decision sustained by Superior Court Mar. 12, 1906; also, decisions of Attorney General, and of Judge Staake, *Rpt. Fac. Insp.*, 1906, pp. 14, 15.

74. Barnard, *op. cit.*, p. 153. The justice of these decisions was frankly questioned by well-informed critics. For example, see *Charities*, May 5, 1906, p. 189.

75. *Rpt. Fac. Insp.*, 1906, p. 15.

76. *Laws*, 1907, No. 241.

77. *Rpt. Supt. Pub. Inst.*, 1907, p. viii.

the power given them in 1907, and there appears to have been no coöperation between them and the inspectors.[78]

A real advance was made in the year 1909 in the enactment of an excellent child labor law, including the best provisions of the discredited measure of 1905 safeguarded and brought clearly within the constitution.[79] As never before in Pennsylvania, the various interests were united in backing this measure. The Department of Factory Inspection, the State Federation of Women's Clubs, the Pennsylvania and the National Child Labor Committees, the Consumers' League, Federated Labor, and other less conspicuous organizations lent their united influence to the pending measure which, on April 29, 1909, received the approval of Governor Edwin S. Stuart, and went into operation January 1, 1910. The essential features of the new law were as follows:

1. Minors under eighteen were not to be employed in dangerous occupations.
2. Minors over fourteen "able to read and write the English language intelligently, and physically qualified," might be employed in mercantile establishments and factories under proper conditions of safety as prescribed by the Chief Factory Inspector. (It is interesting to note that this clause is positive and permissive, rather than negative and prohibitive.)
3. No boy under sixteen and no girl under eighteen was to be employed more than ten hours in a day nor more than 58 in a week, nor before six in the morning nor after nine at night, except that in manufacturing processes requiring continuous operation boys over fourteen might work at night, but not more than nine hours of the twenty-four, if under sixteen.
4. No child under sixteen was to be employed in the listed industries unless he presented an employment certificate as provided; such certificate to be kept on file by the employer and made readily available to inspectors. The certificate once issued became the property of the child and on termination of employment it was to be returned to him.
5. All working papers were to be issued by the superintendent or supervising principal of the public schools, or there being no such official, by the secretary of the board of education, subject to the following provisions:

a). If the child had recently attended a private or parochial school, the superintendent, principal, teacher, or secretary

78. *Rpt. Fac. Insp.*, 1909, p. 7.
79. *Laws*, 1909, No. 182.

might issue the certificate, but he was required to file each month with the proper public school official a copy of every certificate issued.

b). As evidence of age there was required, if obtainable, a birth certificate, a baptismal certificate, a passport, or some other official or religious record of age, or a duly attested transcript of such document. But if documentary evidence of age could not be secured, the issuing officer might accept the affidavit of parent or guardian.

c). All the necessary blanks and forms were to be provided by the State Superintendent of Public Instruction.

6. The penalty for the illegal employment of a minor was, for the first offense, a fine of from ten to twenty-five dollars or ten days in jail or both; for subsequent offenses, not more than fifty dollars or ninety days in jail, or both fine and imprisonment.

The new legislation, bringing the school and labor interests more closely together and recognizing the unity of the ends sought, was cordially endorsed by both the Department of Inspection,[80] and by the Department of Education, the fact that employment certificates were now to be issued solely by those in charge of the schools being particularly gratifying to the latter. It was anticipated that uniformity in this important detail would render enforcement far less difficult.[81]

As in other states, the courts were inclined to deal leniently with parents who violated either the school attendance law or the labor law. The records show few prosecutions, and even in cases of conviction fines were likely to be remitted because of the poverty of the offenders.[82] Neither were prosecutions against employers numerous. As a rule no action would follow a single offense, and though about 18,000 manufacturing plants were visited in a single year, there were less than a dozen prosecutions for violation of the child labor law.[83] It appears that the attendance law was not really enforced, but was permitted to operate so far as the sentiment of the various communities was favorable.

Forces were at work, however, which were eventually to

80. *Rpt. Fac. Insp.*, 1908, p. 13.
81. *Rpt. Supt. of Pub. Inst.*, 1909, p. 8.
82. *Rpt. Chief Factory Inspector*, 1908, p. 14.
83. *Ibid.*, 1912, p. 3.

secure for Pennsylvania legislation in behalf of working children equal to that in any other state. In 1907 the Governor was directed to appoint a commission to revise and codify the school laws. A code was prepared, was accepted by the legislature in 1909, but failed to receive executive approval. With minor changes it was presented again in 1911 and duly enacted into law. This code eliminated the contradictions and obscurities of the old educational legislation, and gave the state a school law both simple and progressive. It made provision for agricultural, industrial, and other forms of vocational education, made minor advances in the attendance requirements, and established compulsory medical inspection. A State Board of Education of six members was created; the board members to be appointed by the governor, to serve without pay, and half the number always to be experienced educators. The governor appointed as the first board of education the gentlemen who had drawn up the code and labored so faithfully for its adoption, thus insuring a sympathetic interest in the new educational program. There followed rapidly other legislation touching the interests of working children. Almost at once it was made obligatory upon districts to establish elementary evening schools for children above fourteen who were employed during the day, provided parents of twenty-five or more prospective pupils made application for the same.[84] Districts were also required to provide manual training evening schools on petition of seventy-five or more taxpayers.

Two years later legislation was enacted defining vocational, industrial, and agricultural education, and providing state aid up to two-thirds of the sum spent by any district "for instruction in practical subjects and in such related technical and academic subjects as may be necessary to complete well-rounded courses of training."[85] The work was required to be given in approved industrial schools or departments, and the state aid received by any one district could not exceed five thousand dollars. Within a year the board was able to put state-aided work under way in twenty-one districts, distributed

84. *Laws*, 1911, No. 401.

85. *Laws*, 1913, No. 138.

among one-fourth the counties of the state.[86] Three types of industrial schools were supported, day, evening, and part-time or continuation schools.[87]

The same legislature which inaugurated state support of industrial education defeated a bill intended to afford more adequate protection to working children. Perhaps it more than redeemed itself, however, by enacting a law which provided for a complete reorganization of the methods of administering the industrial laws of the state. A Department of Labor and Industry was created, having as its head a Commissioner of Labor and Industry with four associates, one an employer, one a wage earner, and one a woman, all appointed by the governor for terms of four years, and constituting an Industrial Board. This board was given power to investigate industrial conditions, to enforce the laws relating to the department, to make and enforce rules and regulations for the application of these laws, and to determine standards within the limits of the law, for particular industries.[88] Within the department are the necessary bureaus including a bureau of factory inspection. At its organization, provisions were made for fifty-eight inspectors, women, physicians, and engineers being included in the number. The state is divided into suitable districts, and the inspectors are under orders to visit, as frequently as possible, all places where labor, subject to state control is employed.

Three measures, enacted in the spring of 1915, served to round out the system of industrial education, adding the compulsory feature essential to any scheme intended to reach and hold children obliged to leave the regular day school for employment. One of these laws created a bureau of vocational education within the Department of Public instruction, providing for two divisions, one of agricultural and one of industrial education.[89] Secondly, a State Employment Bureau was created within the department of labor and industry. This bureau, through its central office at the capitol and its

86. *Rpt. Supt. Pub. Inst.*, 1914, p. 7.
87. *Ibid.*
88. *Laws*, 1913, No. 267.
89. *Laws*, 1915, No. 162.

branch offices, is to coöperate with bureaus of vocational training and placement which may be established by local educational authorities in the interests of children between fourteen and sixteen years of age. Directors of branch bureaus are required by law to provide for the registration of children, to assist them in the selection of suitable vocations, and to coöperate with school principals in their proper placement.

The third measure, the one of chief significance, is known as the Cox child labor law. It is an advanced piece of legislation bringing Pennsylvania into position to assume leadership among the states distinguished for the protection and schooling of their children. It includes in its requirements the most efficient methods of certificating working children and of protecting them in employment and provides that all between fourteen and sixteen must attend continuation classes for at least eight hours a week during the time the public schools are in session.[90] In almost every respect the law met the standards then set by the ideal child labor law; it also recognized more clearly than is usually the case the common problems of school and industry. Following are some of the most important provisions:

1. The act does not apply to children employed in agriculture or domestic service.
2. Children between fourteen and sixteen may not be employed in industry other than agriculture or domestic service unless they attend school during that period for eight hours per week, or for a time equivalent to eight hours per week, for the time the public schools are in session.[91]
3. Hours of labor for such children may not exceed nine per day nor fifty-one per week, including the eight hours devoted to schooling.
4. Prerequisite to employment is an employment certificate issued by the school authorities to children who have finished the sixth grade in school, who present a written promise of employment, adequate proof of age, and who, by a careful medical examination at the hands of a physician employed by the school board, are found physically fit for the employment

90. *Ibid.*, No. 177.

91. Before a child between fourteen and sixteen may leave school to engage in farm or domestic employment, he must secure from the local board of education a leaving permit which is granted only on condition that he has completed the first six grades.

proposed. The certificate must be sent to the employer by the issuing officer through the mail, and at termination of employment must be returned in the same manner to the office of issue.

5. Vacation employment certificates may be issued, but under precisely the same conditions as regular certificates except that the school record is not required.

6. Employment dangerous to health or morals is forbidden.

7. No boy under sixteen and no female minor may be employed before six in the morning or after eight in the evening.

8. The required schooling may be obtained in any school approved by the state superintendent and designated by the local board of school directors. It must be within reasonable access of the place of employment, and the school hours must not be earlier than eight in the morning nor later than five in the afternoon, nor on Saturday.

9. In case there is not effective enforcement of the schooling requirements in any district, the state superintendent is to report to the state board of education; this body is then authorized to appoint attendance officers in the delinquent district, enforce the law, and charge the salary and expenses of the officers to the district, such sum being deducted from the district's apportionment of state school funds.

10. The commissioner of labor and industry and his inspectors, the attendance officers of the various districts, and local police are charged with the enforcement of the law.

11. The penalty for violation is a fine of not less than ten nor more than two hundred dollars, imprisonment for not more than ten days, or both fine and imprisonment at the discretion of the court.

There was, of course, considerable opposition to the passage of this law, with prophecy as to its dire effects upon the working child, upon those dependent upon his earnings, and upon industry. The new requirements were not to become operative until the first of January, 1916, allowing child-employing industries three-fourths of a year to readjust themselves. Many manufacturers, accustomed to the ten hour day, held that it would be impossible to employ children for nine hours while adults continued for the ten hour shift, and as a result 30,000 or 40,000 children would be thrown out of employment on the first of January, 1916. Some employers did not wait for the end of the year, but began to discharge children, filling their places with workers above sixteen years of age. It was held that thousands of children who had secured working papers

under the old law but who had not completed the first six grades of the elementary school would now be forced to give up their positions and attend the common schools already overcrowded and poorly prepared to serve the needs of these young workers who would naturally come unwillingly to the enforced lessons.

To the last objection final answer was soon given by the Attorney General, who ruled that the law was not retroactive; that minors who had secured employment certificates prior to January 1, 1916, held valid permission to work and that whether they had met the new educational requirement or not they might legally continue in employment provided they attended the continuation school until sixteen years of age.[92]

Some communities did not take the law seriously and made no preparation to care for employed children.[93] Some held that the continuation school was not mandatory and delayed action until they found that they were liable to lose their share of the state school fund by non-compliance.[94] But as the time approached for the law to go into effect the opposition tended to decrease. Many employers prepared to have the continuation classes held in suitable rooms in their own plants, and school men grew more enthusiastic in their support.[95] The governor of the state, long distinguished as a wise and progressive educator, supported the new educational program enthusiastically, saying:

"I have given years of thought to the problem of providing a type of education which will enable the youthful toilers of this great commonwealth to learn while they earn. The result of that thought and investigation is embodied in this child labor law."[96]

He used his influence among school authorities, employers, and employees to the end that there might be coöperation of all forces in a program which would give the state, he said,

92. Opinion rendered Oct. 26, 1915; supplemented and enlarged Nov. 4, 1915.

93. *Pittsburg Post*, Feb. 2, 1916; editorial.

94. *Beaver Falls Tribune*, Nov. 9, 1915.

95. *Philadelphia Public Ledger*, Nov. 2, 1915.

96. Letter; Gov. Martin Brumbaugh, *Hanover Herald*, Nov. 10, 1915.

"an industrial impetus which will be felt through all the generations to come."

The state board of education was given large power in carrying out the educational provisions of the law. The duty of organizing and supervising the continuation schools was confided by the board to the industrial division of the vocational bureau, which, for the guidance of the districts, issued a bulletin containing a copy of the child labor act, a careful explanation of its provisions, together with interpretations of certain points likely to be misunderstood and the requirements of the state board in relation to the continuation schools.[97] It was made clear that such schools were to be obligatory upon all school districts in the state in which minors between fourteen and sixteen were employed in other than agricultural and domestic service. The board ruled, however, that a district on request might be relieved temporarily of the necessity of establishing a continuation school if it was shown that less than twenty children were eligible to attend.[98]

By the terms of the law of 1913 a continuation school approved by the state board might secure generous state aid. The provisions of this law as applied by the board to the new schools made it possible for a district to receive from one hundred and fifty to two hundred dollars for each teacher employed in these schools, as well as fifty per cent per year of the actual cost of the equipment necessary to carry forward the academic work, provided that no district might receive over three thousand dollars.

After every effort had been made to prepare the state for the enforcement of the child labor law and to win the coöperation of those most directly affected by it, there remained considerable opposition in industrial centers.[99] But on the whole there was a feeling of pride in the inauguration of one of the most progressive labor and schooling laws to be found at that time in America, so the new requirements were met, as a rule, in excellent spirit. In many industrial centers con-

97. *Bulletin 5, Bureau of Vocational Education.*

98. *Ibid.*, p. 13.

99. Editorials in *Pittsburg Sun*, Jan. 28, 1916, and *Pittsburg Dispatch*, Jan. 31, 1916, are typical.

tinuation schools were opened promptly; during the month of January, 1916, one hundred and four districts put the work under way with more than four hundred classes in operation.[100] At the end of the school year the bureau on vocational education could report: "We have over three hundred and fifty-one continuation schools, attended by over thirty-five thousand children. These [schools] have proved successful beyond expectation."[101]

It was the desire of the State Board of Education to have such an adjustment of work in the continuation schools that sixty per cent of the time could be devoted to vocational subjects and the remainder to academic branches.[102] It was not found practical, however, to give so much emphasis to the vocational side. A large proportion of the working children had left school while in the lower grades.[103] Many of foreign parentage had lost the little English learning they possessed when they secured their employment certificate under the old law.[104] After the first half-year's experience, therefore, it was deemed best to emphasize general rather than specific training until the operation of the law brings the minimum in academic attainment up to the completion, at least, of the six elementary grades.[105] It is not intended, however, that the work in these schools will tend to conform with that usually given in the regular day schools. It is expected that there will be much shop work, that vocational information will be given in connection with both shop and academic work, and that pupils will be led ultimately to an intelligent choice of trade or calling.

The city of Pittsburg may be taken as representing, perhaps, the best that Pennsylvania has accomplished thus far in the administration of the new laws. In some respects the work here is doubtless in advance of that to be found in other cities of the state. The records show that for several years the child labor and compulsory school attendance laws have been en-

100. *Monongahela Times*, Feb. 5, 1916.
101. *Bulletin No. 8, Bureau of Vocational Education*, p. 8.
102. *Bulletin No. 5, Bureau of Vocational Education*, p. 16ff.
103. *Ibid.*, No. 8, p. 17.
104. *Ibid.*, p. 36.
105. *Ibid.*, p. 17.

forced with considerable vigor. From 30,000 to 50,000 cases of irregular attendance have been investigated annually since 1911.[106] An excellent system of home and shop visitation has been in operation, offending parents have been prosecuted, courts have sustained the truant officers and inspectors, and children of school age have had relatively little opportunity to avoid the somewhat meager requirements of the law.[107] School officials, moreover, were prepared to receive the new law cordially, for they had been urging legislation of this character most earnestly.[108] The city had already established industrial and continuation education of various kinds, and only awaited a compulsory continuation law to extend its benefits to all working children. Early preparation was made, therefore, to meet the requirements of the new law. In January, 1916, additional continuation classes were organized, both in school buildings and in quarters provided by employers, though attendance was not strictly enforced until late in May, practically five months being allowed for employers to adjust themselves to the new conditions.[109] At first, vacant rooms in various buildings were utilized, and continuation classes were organized in about sixty different centers with two half-day sessions per week for each child as the prevailing time distribution. Later one large building was set aside as a central continuation school. Here approximately twelve hundred children can be accommodated each week. There are administrative offices, shops, and laboratories, the latter being only moderately well equipped.

The attendance officer, to whom the task of issuing employment certificates is assigned, has his office in this building, so each child seeking working papers must come here, accompanied by his parents.[110] Before an employment certificate is issued the principal of the continuation school talks with the child and endeavors to persuade him to continue in the regular

106. *Pittsburg School Report*, 1912, p. 13; 1914, pp. 32-33, 39.

107. For illustration, *ibid*, 1914, pp. 86-87.

108. *Ibid.*, 1914, p. 89.

109. See *Pittsburg Sun*, May 2; *Pittsburg Press*, May 26, 1916.

110. The law does not require that a parent appear with a child who is applying for an employment certificate; this is an additional safeguard imposed by the local school authorities.

full-time schools, unless it appears that economic necessity is forcing employment. If the child must go to work, an attempt is made to adjust his schooling as closely as possible to his vocational needs. A vocational guidance secretary has a desk in the office of the principal. This officer keeps in close touch with the business houses employing children and is prepared to direct those who need employment into the most desirable of available positions.

The work of the continuation schools in Pittsburg is not yet fully standardized, nor is it carried forward under ideal conditions. The outstanding fact is that many hundreds of boys and girls who under conditions prevailing before 1916 would be entirely separated from all educational influences are now spending eight hours a week in school under trained and enthusiastic teachers, in work which, though often rather remotely, touches in some respects either the actual employment in which they are engaged or the prospective vocation of adult life.[111]

There is little difficulty in enforcing the attendance law so far as it relates to the employment certificate children. The record made in school is considered by the employer, and irregularity or misconduct, if at all serious, would result in dismissal from work. This, under the law, would throw the child back into the regular day schools, a fate which the average boy, once having gone to work, is not able to contemplate cheerfully. In a word, the continuation school in Pittsburg is a success. Pupils are accepting its requirements in a finer spirit than is usually shown by those in the elementary schools. While ideal coöperation between labor and education is not possible, due to the fact that few are in employment that can be considered as in any sense permanent, yet the majority of

111. In the great industrial city of Pittsburg one might expect to find many boys at work in various capacities in the trades or industries which later will claim their adult services. But it is not the case. Few are so employed. An examination of the card files in the office of the principal of continuation schools reveals the fact that only an occasional lad is learning a trade, most being engaged as errand or office boys, drivers, unskilled workers, or in other occupations having no outlook into the future. It is expected that with the development of the system of vocational education, this unfortunate condition will be overcome, at least in part.

those primarily interested are in favor of the child labor law and are supporting the schools.[112]

Throughout the state the law has grown in favor as its value has become more apparent. Notwithstanding the prophecy that thousands of needy children would be thrown out of employment, there were on July 1, 1916, as many minors between fourteen and sixteen employed in the various industries as there were before the law became effective.[113] There remains relatively little opposition to the continuation school, some of those who at first thought they could not adjust themselves to its program being now enthusiastic in its support. Some employers make no deduction in wages for time spent in school; others have offered higher wages, promotion, or other recognition for high class work in school.[114] At least ninety continuation schools were in operation during the school year 1920-1921, with an attendance of about 14,500.[115] State and

112. In May, 1917, Associate Superintendent Baker wrote to all employers of continuation school children asking for opinions as to the value of the work done and inviting suggestions for its improvement. The writer had opportunity to read the replies. In general, employers expressed themselves as well satisfied, the following replies from manufacturers being fairly typical:

"Personally, I consider the continuation school one of the greatest propositions the present board ever worked out."

"We have seen a distinct improvement in our employees who have attended or are attending the continuation school."

"Those who are working and attending the continuation schools are far superior to those who do not attend."

"Continuation school is very much all recht."

A few were hostile to the entire program. Three replies are selected:

"Judging from the boys we have employed, the time and expense of maintaining the continuation school is thrown away."

"They were just wasting their time."

"Not well impressed with the work done."

A few of the dissatisfied employers suggested night attendance as a solution. Specific suggestions for improvement were not infrequent, among them being: more work in common branches, practical business methods, knowledge of the city, better hand-writing, mechanical drawing, more mathematics, more academic work, more manual training, knowledge of means and methods of transportation, knowledge of statutes, courtesy, honesty, obedience, cleanliness, health and sanitation.

113. *Bulletin, Bureau of Vocational Education,* No. 8, p. 18.

114. *Ibid.,* pp. 19, 46.

115. *Personal report, Attendance Bureau,* Mar. 17, 1921. Several other cities which, under the law, would be required to maintain continuation schools were unable to secure approved teachers. In some communities in which there are fewer than twenty employed children continuation classes are voluntarily provided and working children required to attend; for example, Homestead.

national funds, the latter administered under the provisions of the Smith-Hughes law, relieve the local financial burden to an appreciable extent.

As might perhaps be expected, the continuation classes are quite commonly housed in old buildings poorly adapted to the intended purpose.[116] This is most unfortunate, as a large proportion of these children leave school not so much because they must contribute to the family earnings, as because they are weary of the type of instruction usually prevailing in the elementary schools. The few hours which they spend each week under the influences of the continuation school should be spent in an environment as attractive and inspiring as it can be made. There seems to be a disposition on the part of the cities visited to provide more generously for these children. It is probably that, as plans are made for the construction of junior high school buildings, the needs of continuation classes will be given adequate consideration.[117]

In the enforcement of her general compulsory attendance laws throughout the state, Pennsylvania is only now moving in the direction of efficiency. The legal requirements, not radically modified since the enactment of the original law in 1895, are as follows:

1. All children between the ages of eight and sixteen must attend a day school where the common English branches are being taught in the English language.
2. Attendance must be for the entire time during which the public schools are in session, except that in districts of the fourth class the local board may reduce the period of compulsory attendance for children above twelve years of age to not less than seventy per cent of the full term.
3. Children between fourteen and sixteen, having completed the sixth grade of the elementary schools, may secure the general employment certificates as already described or the permits to engage in agricultural or domestic labor. These certificates are issued by the school authorities.
4. Enforcement of the attendance laws rests upon the local boards of education. Boards in all but fourth class districts are required to employ one or more attendance officers, two or more districts uniting for this purpose if they see fit. An at-

116. A condition by no means peculiar to Pennsylvania.

117. Lancaster, for example, is looking definitely to such solution.

tendance officer must have an education equivalent, at least, to the work of the first eight grades of the public schools.

5. The penalty upon a parent who fails to keep his child in school according to law is, for the first offense, a fine of two dollars and costs, for subsequent offenses, five dollars and costs. In case of default of payment, the parent may be committed to jail for a period not in excess of five days.

6. Any school official, who wilfully refuses to comply with the compulsory attendance provisions is liable to a fine of not to exceed twenty-five dollars. If the board of education fails to enforce the law, the Superintendent of Public Instruction may withhold part or all of the districts' share in the state appropriations.[118]

Up to the year 1920 the state did not seriously attempt to secure the enforcement of the attendance law. In the preceding pages it is made clear that the degree in which children were kept in school depended entirely upon the local authorities, usually upon the zeal of the superintendent of schools. Enforcement of the child labor laws has been reasonably effective for several years, and in the majority of well-organized city districts school attendance has been good. As appears to be almost universally the case, however, there was serious neglect of the law in the country and in the smaller cities and towns, as well as in some of the larger industrial centers. The Department of Education has now entered upon a serious campaign to secure the operation of the law in every part of the state. Without additional legal machinery, but largely by means of administrative powers given it under the law, the State Board of Education has provided for a Bureau of Attendance with a director, an office force and five "supervisors of attendance," four being women.[119] A system of monthly reports from every school in the state has been inaugurated, the New York plan being followed in many respects. These reports are filed in the office at Harrisburg, are studied by the director and supervisors of attendance, and districts which

118. This power is used very sparingly. The writer has been able to learn of but one instance in which it has been applied, a case in Erie county in which the sum of $13,000.00 was withheld: "Commonwealth *vs.* M. T. Wilkins."

119. The director of this Bureau is Mr. W. M. Denison, for some time one of the State School Inspectors, widely known throughout Pennsylvania and closely in touch with educational conditions.

appear to require special assistance are visited.[120] No definite data are yet available indicating the number of children which the new method of promoting attendance has brought into the schools, but public interest has been aroused as never before and the supervisors of attendance are confident that very valuable results have already been accomplished. A considerable amount of extra clerical work is thrown upon the teachers and school officials who are required to make the monthly reports. This is resented somewhat, especially by the superintendents in the larger places, where the need of state assistance is not felt, yet the evils of non-attendance are so clearly recognized that practically all have accepted the additional burden and have engaged in a campaign of child accounting state-wide in extent.[121]

Pennsylvania admirably illustrates in her own educational development the three periods into which the history of the public control and education of children divides itself and to which reference has been made in an earlier section of this study.[122] Though the proprietary founder of the colony held advanced ideas as to the function of the state in education, the early systems of schools were parochial and philanthropic. When public funds began to be used in support of education they were applied solely to the maintenance of pauper schools. Public interest in the working child began to manifest itself here in the earlier decades of the nineteenth century, but protective measures were ineffective and compulsory school attendance was not even attempted until well after most of the other northern states had their educational programs well under way. Yet notwithstanding delays due to peculiar social conditions, and obstructions deliberately placed in the way of progress by industrial interests, Pennsylvania has entered upon the third stage of universal and compulsory education with a system which requires only honest, fearless administration to give to the state a position of leadership.

120. Between Sept. 1, 1920, and Mar. 1, 1921, visits to the number of 420 were made.

121. Only two district superintendents in the entire state have failed to file reports as requested.

122. Introduction, p. 2.

CHAPTER VIII

WISCONSIN

Prior to the year 1909 there is little in the history of her educational and industrial development to warrant including Wisconsin in a group of states selected for such a study as this. But in that year a growing recognition of the intimate and helpful relations which might be developed between the school and the life work of the child led to the establishment of an educational policy which, within a few years, made Wisconsin a leader in the task of preparing working boys and girls for industrial activities. She preceded every other state in the inauguration of a comprehensive system of compulsory continuation or part-time schools for working children; she has adapted her educational program to changing industrial conditions more promptly and more successfully than has any other commonwealth. A consideration, therefore, of the compulsory features of education in Wisconsin may well be embraced in this study.

The early educational history of Wisconsin is not essentially different from that of the other states of the Northwest Territory. In the year 1837 a law was enacted providing for compulsory schools in every township in which as many as twenty electors had taken residence.[1] For the support of these territorial schools a *pro-rata* tax was levied upon patrons, but the children of all unable to pay the rates were to be maintained in school by means of a general tax. In the year 1849 the system of common schools was reorganized under the state constitution adopted two years earlier. Schools were now compulsory and free throughout the state.

The state system of free schools was scarcely under way before the questions of irregularity and lack of attendance began to disturb those charged with its administration. Superintendent Lyman C. Draper, deploring the indifference of both

1. *Rpt. Wis. St. Hist. Soc.*, p. 338.

parents and children to the means of education, suggested compulsory school legislation as a remedy, but added: "The idea of compulsory measures to secure more general attendance is not exactly suited to the genius of our free government."[2]

For more than a decade, beginning about the opening of the Civil War, state superintendents vied with each other in reciting the lamentable state of ignorance into which the youth of Wisconsin were falling. For example, in 1861 Superintendent J. L. Pickard called attention to the fact that a large proportion of the children of proper school age were receiving no instruction except that provided by the "school of the street, a school in which every lesson is at war with the vital interests of our people, in which pupils make rapid progress in disobedience to parents, prevarication, falsehood, obscenity, profanity, lewdness, intemperance, petty thievery, larceny, burglary, robbery, and murder, whose graduates become a prey upon the citizen and a constant tax upon his pocket."[3]

Though Superintendent Pickard was deeply moved by the lack of regular attendance, he did not urge legislative interference. His successor in office, after making what appears to have been a superficial study of the situation, concluded that of those who might reasonably be expected to attend school, at least 30,000 were out of school altogether, while less than half of those actually registered were in daily attendance.[4] To him it seemed essential that teachers of higher type and better training be secured and that the schools be made more attractive.[5] It might then be necessary to invoke the power of the law in order to bring under educational influences those who remained indifferent. He, in common with many other school administrators of the time, regarded laws interfering with parental control of children as undemocratic, yet he thought it might be possible to enact a compulsory attendance law that would infringe upon the rights of no one. On this point he made no specific recommendations, saying:

"That those who advocate compulsory education have the

2. *10th. An. Rpt. Supt. Sch.*, p. 6.
3. *13th. An. Rpt. Supt. Pub. Inst.*, p. 9.
4. *19th. An. Rpt. Supt. Pub. Inst.*, p. 11.
5. *16th. An. Rpt. Supt. Pub. Inst.*, p. 7.

best interests of society in view, there is no reasonable doubt. Whether public opinion demands enactments that shall secure it is for the Legislature to consider."[6]

Superintendent A. J. Craig, in 1869 estimated that 100,000 Wisconsin children were receiving no instruction in the schools. He insisted upon legislative action, asserting that unless laws were forthcoming which would secure the education of all the children, the future historian would be forced to portray "the downfall of a once mighty nation which forgot its origin, derided its destiny, sold its birthright, and ended its career in shame and disgrace."[7]

Governor Lucius Fairchild, not to be outdone by the superintendent, treated the subject of school attendance at length, basing his statements upon the figures put forward by the department of education and arriving at the same dire conclusions. He demanded that the legislature take the matter into consideration, saying:

"Is it not our duty to compel the parents of these children to give them the advantages of some school system, whereby they may be rendered fit to assume the duties of citizenship? Has not the state the right to protect itself against evils which threaten its safety, its peace, and even its existence?"[8]

He urged the enactment of "such a law as will compel each child in the state, of proper age, under ordinary circumstances, to attend school a given number of months in each year for a reasonable number of years." In his message the following year, the governor again urged the legislature to enact a compulsory attendance law, holding that over fifty thousand children were growing up without the training necessary to make them intelligent, useful citizens. Many of these, he says, in consequence of their ignorance, "will be vagabonds, fitted only for prisons, brothels, and poor-houses."[9]

Mr. Samuel Fallows, the successor of Superintendent Craig, took a much less radical stand on the question of school attendance under compulsion. In fact, in his first report he ad-

6. *Ibid.*, p. 43.
7. *Wis. Sch. Rpt.*, 1869, p. 6.
8. *Senate Journal*, 1870, appendix, p. 12.
9. *Assembly Journal*, 1871, appendix, p. 18.

vised definitely against such legislation.[10] But before the end of his term of service he appears to have modified his views, as he recommended in his final report a law requiring that every child should receive "in the public school or elsewhere at least the elements of a good common school education."[11]

A bill was introduced in 1873 providing for the attendance at public school of all children between the ages of eight and fifteen for a period of sixteen weeks each year. This bill was indefinitely postponed, but a resolution was adopted asking the Superintendent of Public Instruction to "make such investigation and inquiries as he may deem proper in relation to the best means, whether compulsory or otherwise, to advance the cause of education, and report the result of such investigations to the next legislature, with such recommendations as he may see fit."[12] At this session the legislature enacted a truancy law, authorizing cities to establish truancy schools, to which habitual truants having no lawful occupation might be committed for a period not to exceed two years.[13]

The investigation made by the superintendent in compliance with the legislative resolution does not supply a great amount of accurate information as to the Wisconsin situation.[14] Mr. Fallows concluded that "there were between forty and fifty thousand children in the state who did not attend school during the past year."[15] In closing his report he recommended a compulsory law much like the unenforceable measure adopted by Michigan in 1871 and very generally copied by other states and territories during the succeeding decade.[16]

At this period, the sharp line drawn between the proponents and opponents of compulsory attendance legislation is illustrated on the one hand in the reports and recommendations by Governor Fairchild and Superintendents Craig and Fallows, and on the other by the conclusions of Superintendent Edward

10. *Wis. Sch. Rpt.*, 1871, p. 40.
11. *Wis. Sch. Rpt.*, 1873, p. 72.
12. See also *Wis. Sch. Rpt.*, 1873, p. 31.
13. *Laws of 1873*, ch. 276.
14. *Wis. Sch. Rpt.*, 1873, pp. 33-72.
15. The United States Census of 1870 reports for Wisconsin 55,441 persons over ten years of age unable to write.
16. *Wis. Sch. Rpt.*, 1873, p. 72.

Searing, 1874-1878.[17] The latter stood firmly against the compulsory movement now receiving considerable support, giving very definite reasons for his opposition. He held, first of all, that there was no alarming degree of illiteracy in the state, calling attention to the fact that by basing their conclusions upon the whole number of youth between the ages of four and twenty, his predecessors had arrived at unwarranted conclusions as to the extent of non-attendance. He gave little credence to available statistics, and had sought unsuccessfully to ascertain the real facts. From the incomplete data secured, he concluded, however, "that the schools, wherever tolerably accessible, are imparting the elements of instruction to nearly every healthy child outside the cities and some of the larger villages." Contrary to the argument of most writers of the time, Mr. Searing held that the public school could not reach the children of the poor, the element for whom compulsion was particularly urged. Against them, he said, "shame, pride, self-respect close and double-lock the doors of the public schools." He held that the very excellence of the city schools attended by the children of the wealthiest and most intelligent citizens, would repel the poor and render the schools of little service to them, saying, "The wretchedness of extreme poverty shuns companionship with better fortunes, as owls and bats shun the light of day."[18]

After arguing that the state was not yet prepared to enforce school attendance, even if such a measure were desirable, Mr. Searing contended that there was in a compulsory school law something "essentially opposed to the genius of our free institutions, something essentially un-American," adding, "The mere consciousness of the existence of a law compelling the attendance of my children would be intolerable. I want no statute laws telling me how or when to feed, to dress, or to educate my children." Superintendent Searing adds one element to the discussion not yet noticed by his predecessors in office by recognizing child labor and by suggesting a method of relief far in advance of his time:

17. *Wis. Sch. Rpt.*, 1874, pp. liv-lxvii.
18. *Ibid.*, p. lxvi.

"If cessation from productive labor—even though childish labor—be a severe physical hardship, during the months and years necessarily devoted to the acquisition of that intelligence and culture which fit for good citizenship, then let appropriate support be given to child or parent by the society or state that is interested in the intelligence of the former."[19]

Superintendent Searing put himself on record as a radical opponent of compulsory education. Doubtless, he was regarded at the time as a reactionary, yet in certain respects he was decidedly progressive. He wished to have education adapted to the real needs of the children. He saw something of the relationship of school and the bread-winning occupations. He even justified the state, in actually maintaining the child while he was being fitted for larger usefulness.

In 1879 Wisconsin made her first positive movement in the direction of compulsory school attendance, enacting a law which required the attendance of all children between seven and fifteen years of age upon some public school for a period of twelve weeks each year unless excused by the school board "for sufficient cause."[20] Apparently the actual enforcement of this law was not contemplated. Speaking of it, the state superintendent, William C. Whitford, said:

"It was designed to direct the attention of the people to the alarming non-attendance of at least one-third of the children upon the schools, to the necessity of using some of the features of a compulsory system in remedying this evil, and to discover finally the exact provisions of such a system which could generally be operated and made efficient."[21]

Unenforceable though the law of 1879 doubtless was, the year following brought an increase in the total enrollment in the public schools of about 10,000, or nearly two per cent, an increase due, in the judgment of the superintendent, to the new law. The law was not regarded favorably in all sections of the state, however, and in some it was entirely ignored.[22] The superintendent urged that the requirements be strengthened, and that a clause be added excluding from factories all

19. *Ibid.*
20. *Laws of 1879*, ch. 121.
21. *Wis. Sch. Rpt.*, 1880, p. xxix.
22. *Wis. Sch. Rpt.*, 1880, p. xxvi.

children under fourteen unless credited with twelve weeks' schooling in the preceding year.[23] No action followed immediately, and by 1886 the law had demonstrated its weakness to such an extent that educational authorities were recommending its repeal unless by amendment it could be brought into a more satisfactory form.[24] Evidently it had fallen into very general neglect, and was used, according to the observation of the state superintendent, only "to make it the occasion of annoyance of school officers, or of persons against whom there is prejudice or animosity."[25] But by far the most bitter criticism of the impotent attendance law came from those who were charged with the administration of the child labor law.

Legislation designed to control the employment of young children was secured two years before the enactment of the first compulsory attendance law. A strong element had opposed any restriction of labor, regarding it as an attack upon the manufacturer, who here as elsewhere seemed to require very tender treatment throughout the nineteenth century. Besides the prevailing belief that the labor of children was necessary for the successful conduct of certain business, there was the deep-seated conviction that any interference with the parent's control over his offspring was a violation of the democratic spirit of America, an infringement on personal liberty.[26] But in 1877 an act was passed forbidding the employment of children under twelve years of age, during the school year, in factories where conditions were deemed injurious to health. As a piece of legislation, this measure was ridiculously inadequate, yet it hinted at two essential features in a modern child labor law, the health of the child and his education. The law was somewhat improved by amendment in 1878,[27] but means of enforcement were not provided, and it was quite generally disregarded.[28]

In 1883 the Bureau of Labor Statistics was created and

23. *Ibid.*
24. *Wis. Sch. Rpt.*, 1885-86, p. 42.
25. *Ibid.*
26. *Am. Acad. Pol. & Soc. Sci.*, Vol. XXV. 1905, p. 467.
27. *Laws of 1878*, ch. 187.
28. *Am. Acad. Pol. and Soc. Sci., op. cit.*, p. 468.

among other duties the Commissioner was charged with the enforcement of the child labor law.[29] A feeble attempt was made to ascertain the extent to which the law was violated throughout the state, the Commissioner sending out blanks to the various factories and workshops for reports. Quite naturally, very few cases were reported, although on a personal visit in Milwaukee some children were discovered who were apparently employed illegally, "but," writes the Commissioner, "on putting leading questions to them and their parents, the invariable answer was that they were past twelve years of age."[30] The Commissioner, who evidently did not believe that the law should be enforced literally, concluded that there were no serious violations, and what there were, he justified on the grounds that as much good resulted therefrom as harm, the employment being quite respectable and the children working by their own choice and anxious to retain their places.[31] Besides, argued the Commissioner, since there was absolutely no attempt to enforce the compulsory attendance law, it would be unwise to crowd children out of employment and into idleness. "It is the unqualified opinion of this Bureau," he said, "that children under twelve or fourteen years of age should be in school, but if there are no officers to compel them to attend school, there should be none to force them from respectable and remunerative employment into idleness."[32]

It is not clear that the Commissioner is quite unprejudiced in his statements concerning the enforcement of these two statutes. In the second biennial report of the bureau he complains again about the prevailing neglect of the attendance requirements:

"There are about 16,000 officers liable for the enforcement of these laws; and if they would do their duty, I would have little or no difficulty in enforcing the act keeping children under twelve out of factories and workshops."[33]

Apparently there had been no attempt thus far to render

29. *Laws of Wis.*, 1883, ch. 319.
30. *Rpt. Bu. Lab. Stat.*, 1883-84, p. 161.
31. *Ibid.*, p. 162.
32. *Ibid.*, p. 165.
33. *Rpt. Bu. Lab. Stat.*, 1885-86, p. xli.

the school attendance and child labor laws mutually helpful to each other. The enforcement of both had been equally neglected; they had not attracted sufficient attention to make themselves known even among those whom they were designed to serve.[34] But in the later 'eighties both child labor and compulsory school attendance received increasing attention, questions concerning the latter being dragged into politics and serving to unseat the dominant party.

In the year 1885 a factory inspector was appointed. He was unable to visit the rapidly developing industrial plants frequently enough to insure the enforcement of the legal requirements, and in 1887 a second inspector was appointed. At the same time the factory laws were improved and the labor of young children was more closely restricted.[35]

With the increased force, illegal child labor, according to the reports of the bureau, was eliminated. In the fourth biennial report, the Commissioner gives notice as follows:

"The Wisconsin bureau cannot furnish statistics of child labor, for the simple fact that there is no child labor in the state, in the strict sense of the word."[36]

The satisfaction of the Commissioner over the child labor situation was not shared by all. Private observers and outspoken newspapers insisted that young children were still at work in certain factories. Instead of investigating the charges, the Bureau of Labor secured statements from some of the manufacturers accused of employing children contrary to law, in which these gentlemen made oath that they employed none under legal age.[37] It does not appear that this method of proving the law-abiding character of Wisconsin manufacturers was accepted by the "irresponsible persons and newspapers" that had raised the question, but the Deputy Commissioner declared in a public address in 1888 that not a child under fourteen years of age could be found in any of the two thousand

34. *Rpt. Bu. Lab. Stat.*, 1885-86. p. 13.

35. *Laws of Wis.*, 1887, ch. 549. No child under fourteen was to be employed in factory or workshop for more than ten hours in one day nor for more than seven months in one year; no woman or minor was to be *compelled* to work in such establishments for more than eight hours in one day.

36. *Rpt. Bu. Lab. Stat.*, 1888-89, p. 7.

37. *Ibid.*

factories of the state. "Our system of state inspection," he asserted, "prevents their employment."[38]

The year 1889 marked very definite progress in both school attendance and child labor legislation. The labor law already sought to protect children employed in factories, workshops, and mines; to this list were now added stores and other places of business and amusement. The age limit was raised to thirteen but a vicious system of permits was established which really lowered it to ten. County judges might, at their discretion, grant a permit to work to any child over ten years of age who could read and write English. This was intended for the relief of needy children, but as the judges could not investigate each case, the result was that practically all who applied secured permission to go to work.[39] The educational requirements in this measure were very meager and no adequate means of enforcement were provided. It was strengthened two years later, the minimum age being advanced to fourteen, though permits still might be granted to a child of twelve.[40]

In regard to school attendance, a somewhat critical situation had arisen. A large number of German-language schools had been established, and, to a lesser extent, Scandinavian schools were emphasizing their own language rather than the English. In 1889 Governor William D. Hoard in his message to the legislature called attention to this situation, asserting that the child has a right to a reasonable amount of instruction in the common English branches, and demanded specifically that all be given opportunity to learn to read and write in English. He recommended a system of state inspection to enforce a requirement that these subjects be taught in all schools.[41] There followed the enactment of the famous "Bennet Law."[42] There was nothing unusual or revolutionary about this measure. It

38. *Ct. Rpt., Lab. Stat.*, 1889, p. 50. The minimum age for legal employment in factories in Wisconsin was not raised to thirteen until 1889. It was advanced to fourteen in 1891.

39. *An. Am. Acad. Pol. and Soc. Sci., op. cit.*, p. 469; *Laws of Wis.*, 1889, ch. 519.

40. *Laws of Wis.*, 1891, ch. 109.

41. *Assembly Journal*, 1889, p. 267.

42. *Laws of Wis.*, 1889, ch. 519.

strengthened the former requirements in certain respects, provided for the attendance of all children between seven and fourteen upon some school, unless properly excused, and gave a negative definition of a school, simple and reasonable enough in an American state, yet sufficiently displeasing to a considerable element to bring the entire law into public notice and finally into the courts. It was as follows:

"No school shall be regarded as a school under this act unless there shall be taught therein, as part of the elementary education of children, reading, writing, arithmetic, and United States History in the English language."

A German paper in Milwaukee was the first to call attention to the possible effect of this law upon certain private and parochial schools; others joined, and there was hot discussion in the press and on the platform. On June 4, 1890, an "Anti-Bennet State Convention" was held at Milwaukee, the chief seat of opposition to the law. Here a fervent call was made upon all "who cherish liberty, regardless of party or nationality, to join in the effort to have this unnecessary, unjust, and discord-breeding measure repealed." The democratic leaders saw their opportunity, and accused the republicans of deliberately seeking to overthrow the rights of the free individual and of the churches, saying in the platform of that year:

"To mask this tyrannical invasion of individual and constitutional rights, the shallow plea of defense of the English language is advanced."[43]

From the standpoint of political opportunity, the Democratic party had been fortunate in seizing upon this cause as its principal issue. Its candidate for the governorship was swept into office by a majority of 30,000 over the Republican candidate, who had signed the unfortunate Bennet law. The offending measure was promptly repealed, and in its stead a law was enacted which did not require the use of the English language.[44]

43. Thwaites, *Wisconsin*, p. 408.

44. *Laws of Wis.*, 1891, ch. 187. The requirement that instruction be given in the English language is not unusual in our compulsory attendance laws. It is scarcely conceivable that the leaders of the party of Thomas Jefferson could have seriously objected to a measure intended to insure a reasonable command of the language of their adopted country, to the children of

The compulsory attendance measure enacted to take the place of the Bennet law was mild enough to meet the demands of those most opposed to state direction of education. It reduced the required period of attendance by one year, making the compulsory period close at thirteen, despite the fact that the child labor act of the same session excluded children under fourteen from a considerable list of industries; any court of record might exempt a child under thirteen from the operation of the law; enforcement was entrusted to the director or the president of a school board or to the truant officer whose appointment was made optional with boards. When appointed, truant officers had no authority to visit places where children might be employed; indeed, in no way did the law recognize that industrial and educational problems were even remotely related.

The decade following the repeal of the Bennet law was a period of almost absolute inactivity so far as compulsory education was concerned. Elective officers had learned their lesson. It was not good form even to speak of such legislation, and state superintendents remained discreetly silent. There was a disturbing factor, however, in the United States census report of 1890, which showed that 31,993 Wisconsin children between seven and thirteen years of age, more than eleven per cent of the entire number of that age, were attending no school at all. Anxious officials succeeded in showing that had certain parochial schools been properly reported it would have been found that not more than 20,000 children between seven and thirteen were actually out of school.[45] The figures in 1895 show that about six per cent of the children of the compulsory age, nearly 17,500, were without any form of instruction.[46]

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immigrants, since all must realize the value of a common language in the development of loyal citizenship and true patriotism. It was a question of politics. Here was an excellent opportunity to catch a large foreign vote, an opportunity which a politician could not let pass. It is interesting to observe that after the passage of a quarter of a century there should come from this state, particularly from the foreign-language element and its political representatives, anti-American sentiment powerful enough to hamper seriously the national administration in the control of the party which, in its zeal for office, exempted several thousand children from the mastery of the English tongue.

45. *Wis. Sch. Rpt.*, 1891-92, p. 17f.

46. *Wis. Sch. Rpt.*, 1895-96, p. 9.

In this decade the forces opposed to the employment of young children in industry were uniting and were gaining such an understanding of the problems connected with effective enforcement of laws in restraint of the evil as enabled them to take an advanced step at its close. The inspectors had lost the complacency formerly expressed in their annual reports, and had come to realize that some thousands of young children were illegally employed. It must not be supposed that this relatively new mid-western state was essentially rural in its industrial life, like Iowa or Kansas. In 1890 it ranked tenth in the Union in the extent of its manufacturing interests.[47] The commissioner of labor and industrial statistics, in an historical sketch in 1900, gives a dark picture of the working conditions of children:

"In the older manufacturing cities of the state, conditions surrounding working children were found to exist as horrible as any which cursed the life of the factory hands of the older manufacturing states of our Union. No attention was given to the age or sex of the child or nature of the work performed, the only requirement being the physical capacity of the child to do the work given it."[48]

A more careful survey of the child labor situation than had heretofore been made was undertaken in 1897-1898. Of 5600 children examined, 500, or nine per cent were found to be illegally employed. The results of the study were laid before the legislature, and in 1899 additional laws were secured allowing seven inspectors instead of two, and prohibiting the employment of children under fourteen in factories, shops, and mines at any time. as heretofore, and in stores, laundries, and messenger service except during the vacations of the public schools.[49] The following year, the inspectors, prepared now for the first time to combat the hostility of the manufacturers, began a vigorous and successful campaign for law enforcement.[50]

By 1897 it was again possible to consider compulsory school legislation, and in that year an act was passed restoring the upper limit of the compulsory age to fourteen, the minimum

47. *Wis. Rpt., Bu. Lab. and Indust. Stat.*, 1897-98, p. 40.
48. *Ibid.*, 1899-1900, p. 284.
49. *Wis. Laws*, 1899, ch. 274.
50. *Rpt. Bu. Lab. and Indust. Stat.*, 1899-1900, pp. 293, 360.

age for employment in the restricted industries.[51] A decided advance was made in 1903 when it was required that all children between seven and fourteen, and between fourteen and sixteen if not regularly employed, attend some public, parochial, or private school for the entire session, a period of not less than eight calendar months in cities, of not less than five months in other districts.[52] The only excuses admitted were mental or physical disability as attested by a reputable physician, or distance from school of more than two miles. Enforcement was well provided for in cities of the first class, where boards of education were required to appoint three or more truant officers; in other cities of 10,000 or more at least one such officer was to be appointed, while in the smaller districts appointment was optional. Truant officers were authorized to visit places where children were employed, factory inspectors were given the powers of truant officers, and the laws were brought into such harmony as to make possible close coöperation between the two groups of protective forces.

The effect of the revised laws was immediately seen in an increased enrollment and in a more regular attendance.[53] In the cities truant officers were provided, and many children were brought under educational influences.[54] In villages and rural districts, however, little attention appears to have been given to the law.[55]

Meanwhile there was a steady advance in the efficiency of the child labor laws and in their administration. In 1901 the list of places in which the employment of children under fourteen was prohibited was made to include bowling alleys, beer gardens, and bar-rooms.[56] The law retained the requirement that employers must keep on file the parent's affidavit as evidence of age and schooling, a provision that Wisconsin, like New York, seemed reluctant to abolish. But with the further development of industry, accompanied by an increasing de-

51. *Laws of Wis.*, 1898, ch. 27. Enacted at adjourned session of 1897. In effect, Sept. 1, 1898.

52. *Laws of Wis.*, 1903, ch. 189.

53. *Wis. Sch. Rpt.*, 1903-1904, p. 65.

54. *Ibid.*, 1904-1905, p. 27.

55. *Ibid.*

56. *Laws of 1901*, ch. 182.

mand for child labor, false statements by parents became so common that the affidavit was abandoned.[57] In place of this discredited method of establishing the child's age, it was provided that all children between fourteen and sixteen, seeking employment, should secure a labor permit from the commissioner of labor, a factory inspector, or a judge of a county, municipal, or juvenile court, such permit to be granted only to children who could read and write and only on presentation of evidence of age in the form of birth or baptismal certificate, or if these be lacking, a verified record of age on first enrollment in school. It was provided, however, that a child between twelve and fourteen years of age might secure a certificate for employment in certain industries during the vacation of the public schools. Hours of labor were limited to ten in one day and fifty-five in one week, night work forbidden, except when necessary to save perishable goods, and a physical examination was required if demanded by the officer issuing the permit.[58]

Enforcement after 1903 was much less difficult than formerly. Officers were not always sufficiently careful as to requirements of age, and an investigation conducted in 1904-1905 by the Federal Bureau of Labor showed that between three and four per cent of all children employed were under fourteen.[59] Yet on the whole, excellent results were obtained. Speaking of the law in 1906, Mr. Edward W. Frost of Milwaukee said:

"It has revolutionized the system in Wisconsin, and some one thousand children were taken, in a year, out of the factories and stores where they were unlawfully employed, and thousands kept from beginning work under age."[60]

Both the child labor and attendance laws were further modified at succeeding sessions of the legislature, notably that of 1907, always in the direction of greater restriction in employment or more effective administration. In the reorganization of education undertaken in 1911, the questions involved

57. *An. Am. Acad. Pol. and Soc. Sci., op. cit.,* p. 471f.
58. *Laws of Wis.,* 1903, ch. 349.
59. *Bul. No. 52,* 1904, *U. S. Bureau of Labor,* p. 493.
60. *An. Am. Acad. Pol. and Soc. Sci.,* Mar., 1906, p. 101.

in employment and attendance were merged with the larger question of industrial education, especially in the manufacturing centers, and in the concluding pages must be discussed in connection with this subject.

The movement which brought Wisconsin into prominence educationally, and set her as the leader of the sisterhood of states in democratic education, was put under way at the close of the first decade of the twentieth century. By this time her laws for the protection of children were fairly good; enforcement was probably better than in most of the north central states, yet each year, according to the statistics now reasonably reliable, not far from 30,000 children between seven and fourteen years of age were out of school altogether. Other children, to the extent of several hundred each year, were being taken out of illegal employment and, so far as the machinery of government permitted, were being forced into school, there to pursue courses of doubtful value because of little interest to them. Wisconsin was not alone in questioning the value to the working child of the subjects regularly offered in the upper elementary grades. Massachusetts had led in the intelligent study of the problem, several states had made more or less successful attempts to foster industrial education, but no state apparently had seen quite so clearly as Wisconsin the vision of a free and compulsory public school adapted to the needs of every child.

For twenty years industrial leaders had been urging the special training in the schools of those who were to enter the skilled trades.[61] Interests, largely industrial and commercial, were calling for the introduction of manual training as a part of the educational program in the belief that it would serve as a partial preparation for the trades, and in 1895 a law was enacted offering state aid for its development in high schools.[62] Session by session the legislature gave more generous support to the manual arts and to the encouragement of practical subjects.[63] In 1907 boards of education were given power to

61. An address by a member of the Wisconsin Bureau of Labor and Statics, recorded in *5th An. Rpt. of Conn. Bu. of Lab. Stat.*, p. 50.

62. *Laws of 1895*, ch. 358.

63. *Laws of 1899*, ch. 273; 1901, ch. 345.

establish trade schools, unless the voters should decide to the contrary.[64]

State Superintendent Cary had, from the beginning of his official service, favored industrial education for the children that must leave school early in order to go to work. In 1908 he began to urge the establishment of trade schools, holding that this was the only way to meet the needs of the throngs of children who never reach the high school.[65] In 1909 the legislature created a special commission, directing it to study the condition and needs of education in the state, and to report at the next session.[66] This commission[67] made a careful study of the entire educational situation. It was at once seen that the old subject of compulsory attendance, with which the state had been laboring for exactly thirty years, was a part of the industrial question, that social changes had rendered prevailing standards wholly inadequate, and that the work of the commission must be more extensive than had been anticipated.

"Our investigations," writes the chairman, "have led us directly to the study of the relation of industry to education. It is the education of the few, which must be thoroughly overhauled, and which must be reorganized upon a sound basis, with an eye to the conditions of the future progress of our state."[68]

After two years of investigation, study, and constructive planning the commission laid the results of its work before the legislature, which, at the session of 1911, provided for a state system of industrial education in accordance with the recom-

64. *Laws of 1907*, ch. 122.

65. *Madison Democrat*, Jan. 20, 1908. The Milwaukee School of Trades, founded in 1906 by legislative act, under the auspices of the Merchants' and Manufacturers' Association of Milwaukee, had been made a part of the city school system under the law of 1907. This school, said to be the first trade school in the United States to be sustained by a special tax levied for industrial education, could not serve the class of children Superintendent Cary had in mind, as boys were not received until sixteen years of age. —*Industrial Education*, Pub. by Am. Fed. of Labor, 1910, p. 33.

66. *Joint Resolution No. 53*, Leg. 1909.

67. Composed of the state superintendent of public instruction, the president of the university, the director of the extension division of the university, the librarian of the legislative reference department, and the superintendent of the Milwaukee public schools.

68. *Rpt. of the Com.*, p. 3.

mendations submitted.[69] This system was the logical outcome of the compulsory attendance and child labor laws which had been in process of development during the preceding generation, reënforced by the modern conception of relationship between education and industry.

In every community of five thousand inhabitants or more, there must be established a local board of industrial education, so organized as to unite the separate interests of education, labor, and capital. The local superintendent of schools or high school principal is *ex officio*, a member of this board; the other four members consisting of two employers of labor and two employees, are appointed by the local school board for terms of two years, and serve without pay.[70] It is the duty of the local board of industrial education to "establish, foster, and maintain schools for instruction in trades and industries, commerce and household arts in part-time-day, all-day, and evening classes." By virtue of its appointment, this board is almost certain to remain in sympathetic relation with the regular public schools. Legally, however, it is quite independent of them. It prepares its own budget, reports its needs to the city, village, or town council, and in accordance with its estimate a tax is levied and collected, as other taxes are, not to exceed one-half mill on the taxable property of the district.

At the head of the system of industrial education is a state board which is charged with full responsibility in the organization and development of vocational education in the state, has control of all state aid given to industrial schools, allots federal aid under the Smith-Hughes act, and serves to unify the entire system of industrial education from top to bottom.

This board, as originally constituted, was composed of nine members, three being *ex officiis*, the state superintendent of

69. *Laws*, 1911, ch. 616. Three years before Wisconsin created her commission for the study of industrial education, Massachusetts provided for a similar study of her educational problems. The notable work of the Massachusetts commission and the legislation based upon it began a new chapter in the educational history of this country. Doubtless the Wisconsin commission was greatly indebted to the leaders in Massachusetts, but in the newer state, free from hampering traditions, a more rapid advance was possible.

70. Towns under five thousand population may appoint such boards, and up to January 1, 1917, twenty had done so and fifteen had continuation schools in operation.

public instruction and the deans of the department of extension and the college of engineering of the State University. The remaining six members, three employers of labor and three skilled employees, were appointed by the governor for terms of two years.

There has been extended discussion of the relative merits of a system of industrial education entirely dissociated from the general school system and one fairly closely connected with it. On the one hand a certain element feared that the educators would finally assume complete control of the industrial schools, and that for the sake of the latter there should be an entire separation of the two systems.[71] On the other hand, prominent school men have insisted that the best results could be obtained through the close coördination of theoretical or general education with the practical.[72]

The experience of several years has seemed to warrant the maintenance of local boards of industrial education precisely as first organized, but the state board has been changed so as to increase the representation of the vocational interests, continuing the State Superintendent of Public Instruction as the sole representative of general education.[73]

It is not possible here to enter upon a detailed discussion of the Wisconsin system of industrial education. Those schools upon which attendance is compulsory for certain classes of children or youth must be indicated, however, and some of their significant features briefly considered. First in importance is the continuation school. This school is at the heart of the Wisconsin system of industrial education. It was originally designed for children at work on permits, but the law now requires that all children between fourteen and seventeen years of age, living in a town, village or city maintaining schools under the board of vocational education and not in attendance upon some other school, must attend one of the

71. *Wisconsin State Journal*, Dec. 21, 1916, editorial.

72. *Education News Bulletin*, Jan. 1, 1917; *Milwaukee Leader*, Mar. 14, 1917; *Racine Journal-News*, Mar. 11, 1916.

73. *Laws*, 1917, ch. 41, sec. 41.13. As now constituted, this board is made up of the state superintendent, one member of the industrial commission selected by the commission itself, and nine members appointed by the governor, three employers, three skilled employees, and three practical farmers.

industrial or continuation schools for at least eight hours a week during eight months each year.[74] In the year 1915-1916 these schools gave instruction to 14,284 children, a number which, by 1920, had increased to 20,932.[75] These children were above fourteen years of age, had dropped out of the public or parochial schools to go to work, and though many were no more than half way through the grades, their schooling, so far as the old system could serve them, was at an end.[76]

It must not be supposed that all the children enrolled in the continuation schools began their attendance willingly. Not only does the child very often seek to escape further educational obligations when once he has secured release from the public school, but parents sometimes look upon the continuation school as an attempt to deprive them of a portion of the child's time, which might better be devoted to increasing the family income.[77]

The fact that a large proportion of the children are employed in "blind alley jobs" adds decidedly to the difficulty in administering the courses of study and in giving intelligent vocational guidance. Such guidance is not possible without interest, and this is precisely the stimulation that the blind alley worker lacks.[78] Yet interest must be developed, and an academic foundation made secure, if the school is to justify itself. One director writes:

"In our own schools we are spending one-half of the time in

74. When the continuation schools were first established, in 1911, the minimum period of attendance for employment certificate children was fixed at five hours a week for six months each year. *Wisconsin Laws*, 1911, ch. 660. The law was amended in 1915, providing that children between sixteen and seventeen years of age, who were in employment, should attend the continuation school for four hours a week during eight months of the year, or for five hours during six months. *Section* 17280-2. No provision was made for the enforcement of this amendment, and a permit was not required; in case a child had passed his sixteenth birthday, the officers of the commission were practically impotent. In 1917, the requirements were increased as noted above, and children under seventeen, whether at work or not, were made subject to them. In all cases the time spent in school is to be included, if the child is at work, in the maximum number of hours during which employment is permitted. *Wisconsin State Board of Vocational Education; Bulletin No. 3*, 1919, pp. 13-14.

75. *Letter*, Secretary Wis. St. Bd. Voc. Ed., Mar. 15, 1920.

76. *Wis. St. Bd. Indust. Ed., Bul. No. 3*, 1916, p. 4.

77. *Ibid., Bul. No. 12*, 1916, p. 41.

78. *Bul. No. 12, op. cit.*, p. 42.

keeping alive that flickering spark of academic intelligence which may be found in the minds of most of the boys and girls.'"[79]

The law makes few specific requirements as to the courses of study. Only English, citizenship, sanitation, and hygiene, and the use of safety devices are mentioned, all else being left to the local boards, subject to the approval of the state board and the state superintendent. Local conditions, then, may determine the subjects to be emphasized in any particular community.

From the beginning, the state has supported the continuation schools generously, granting annually a sum equal to one-half the amount actually expended the preceding year by the local board in any approved school, provided that the sum granted a school in one year must not exceed three thousand dollars. In 1911 only two cities claimed this aid; in 1913, twenty-one; in 1915, twenty-nine; in 1919, forty-three; in 1920, forty-eight.

Local boards of industrial education may establish all-day industrial and commercial schools if conditions warrant, to which the state board will grant state aid on the same basis as to continuation schools. Youth between fourteen and seventeen who are employed, may satisfy the compulsory requirements by attendance upon these schools. Those who have been employed on permit and are temporarily out of work comprise a large proportion of the enrollment, which is relatively small, 4303 in the industrial, 938 in the commercial schools in 1916.[80]

In 1911 the apprenticeship law was rewritten, providing that every apprentice should be taught the whole trade as carried on by his employer, that not to exceed fifty-five hours a week should be spent in employment and instruction, and that of this time not less than five hours a week should be devoted to instruction to be given either in a public school or in such other manner as the local board of industrial education might approve, such instruction to continue during the entire period of apprenticeship.

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79. *Ibid.*

80. *Wis. St. Bd. Indust. Ed., Bul. No. 12,* 1916, p. 24. In 1919-1920, enrollment in the day continuation schools was 26,874, in the evening schools, 23,178.

This measure did not prove popular. Only about four hundred apprenticeship contracts were filed with the Industrial Commission to which had been entrusted the administration of the law, although it was estimated that there should have been 13,000.[81] In 1915 the law was revised,[82] fixing the upper age limit for compulsory instruction at eighteen and giving the Industrial Commission, instead of the Board of Industrial Education, control over the subjects to be taught and over certain administrative details. The new measure has been sharply criticized. It is said that the period of compulsory instruction was cut down through the influence of the employers, who now take apprentices at eighteen, thus avoiding the schooling requirements altogether. This has had the effect of keeping working boys in blind alley occupations up to eighteen, and in this respect the change in the law was a backward step.[83]

On the whole, the system of education through apprenticeship appears to be operating with sufficient effectiveness to offer encouragement to its promoters. It was seriously disturbed by the war, yet decided progress has been made and skilled workmen well grounded in both the theory and practice of their trades are being graduated each year.[84]

The attitude of labor toward the system of industrial education in Wisconsin has been somewhat equivocal. Without the support of working men it would have been impossible to carry out the present program, yet the State Federation of Labor, although announcing itself as favorable to education in all forms, has declined to become identified with any specific movement.[85] Organized labor has favored the practical in education, but has protested against any scheme that would tend to create a large class of semi-skilled mechanics.[86] So far as the schools are able to raise the general level of intelligence of employed youth, they will doubtless receive the un-

81. *Ibid.*, pp. 27-28.
82. *Laws*, 1915, ch. 133.
83. *Wis. St. Jour.*, Jan. 14, 1917.
84. *Industrial Commission, Rpt. on Allied Functions*, 1918, p. 56.
85. *The Daily Commonwealth*, Fond du Lac, July 22, 1916.
86. *Wisconsin Labor Bulletin*, April 21, 1916.

qualified support of labor. The trade school is not likely to be given so full a measure of support, however, it being held preferable that the trade be learned through apprenticeship, over which labor may exercise more direct control.[87]

Enforcement of attendance in the continuation schools has been relatively simple wherever the coöperation of interested forces has been secured. As a rule the school authorities have sought to meet the needs of the employers, thus securing their good will and their interest in the progress made by their young employees in school. The Industrial Commission through its inspectors coöperates, also, by revoking the working papers of any child who persistently absents himself from the continuation school, thus removing him from employment and forcing him back into regular day school.

The Industrial Commission has assumed a large place in Wisconsin's organization for the protection and education of working children.[88] Originally it united within itself the functions of the bureau of labor and industrial statistics, the state board of mediation and arbitration, the department of factory inspection, and the industrial accident board. Gradually its duties have been extended and made to include important educational functions, among them the organization and stimulation of apprenticeship education, and the supervision of the enforcement of compulsory attendance. The commission also coöperates in various ways with the part-time and other industrial schools, using all available agencies to advance their interests.[89]

In its relation to this study, the most conspicuous service performed by the industrial commission is in connection with the administration of the child labor law. The regulations under which children may be employed have been revised in various details since 1911, until now, though not ideal, they constitute an excellent working law. As administered at present, this law appears to insure to the working child adequate protection and an elementary and industrial education

87. *Ibid.*

88. *Laws of Wis.*, 1911, ch. 485.

89. *Indust. Com. of Wis., Rpt. on Allied Functions*, 1914, p. 55; 1914, p. 61ff; 1917, p. 42.

not excelled by the compulsory measures of any other state. Some of the more important provisions are the following:

1. No child under fourteen shall be employed in any gainful occupation, except that children between twelve and fourteen may be employed during the vacations of the public schools in a limited group of industries specified in the law, provided a labor permit has been secured.

2. No child between fourteen and seventeen years of age may be employed in any gainful occupation without a labor permit.

3. The labor permit.[90] (1) Documentary proof of age must be presented in the form of a certificate of birth, record of baptism, or other documentary evidence satisfactory to the commission.

(2) A schooling certificate is required, signed by the superintendent or principal of schools, showing that the child is more than fourteen years of age and has completed the sixth grade in school or its equivalent, or has attended school for at least seven years.[91]

(3) The applicant must file a written promise of suitable employment.

(4) The employer is required to file with the issuing officer a written statement to the effect that the permit has been received and filed, and that the child is actually employed.

(5) Within twenty-four hours after termination of employment, the employer must return the permit to the office of issue.

(6) The representative of the commission may refuse to issue a permit in case the child seems physically unfit to engage in the employment proposed, or in case, in his judgment, the best interests of the child would be served by such refusal.

(7) The commissioner of labor is authorized to revoke a permit without notice if it appears that the welfare of the child would best be served by such action.

4. All children under seventeen employed under permit in a city maintaining a vocational school must attend such school for at least eight hours per week, for at least eight months per year.

5. The total number of hours of labor and schooling must not exceed forty-eight in one week if the child is under sixteen, or fifty-five in one week if between sixteen and seventeen.

6. It is the duty of inspectors and truant officers to visit

90. The restrictions in 1 and 2 do not apply to children employed in agricultural pursuits.

91. After July 1, 1920, completion of the seventh grade or attendance for at least eight years.

places where children are employed and to prosecute violators of the law.

7. Employers violating the law are subject to a fine of not less than ten dollars nor more than two hundred dollars for each offense, or imprisonment in the county jail not longer than thirty days. Parents permitting the illegal employment of a child may be fined not less than five nor more than twenty-five dollars, or imprisoned for not longer than thirty days.

In most respects, the Wisconsin child labor law now embodies the highest standards that have thus far been established anywhere. No specific provision is made, however, for the physical examination of applicants for working papers. The law authorizes the withholding of permits from those who seem physically unfit to perform the labor proposed, and the commission has interpreted this to mean that the child is to be protected in his health as well as in his education. It has, therefore, held that school officials, and others designated as permit deputies, may require certificates of health issued by a public health physician or by some other legally qualified physician, before granting labor permits.[92] In Milwaukee, equivalent to one-half the state measured by the number of children at work, no permit is issued unless the applicant presents a detailed statement of his physical condition from the city health department or from other competent medical authority. The issuing officer uses this statement in determining whether or not the applicant is physically fit to perform the labor at which he is to be employed.[93]

In the enforcement of the child labor laws, for which it is fully responsible, the industrial commission has sought the coöperation of the school authorities, utilizing them quite generally throughout the state in the granting of labor permits. Before the creation of the commission, permits might be issued by the commissioner of labor, a factory inspector, or by the judge of any county, municipal, or juvenile court.[94] With minor changes, this practice was continued until 1917, when it was provided that permits might be issued only by the com-

92. *Industrial Commission of Wis., Rpt. on Allied Functions,* 1918, p. 47.

93. *Industrial Commission of Wis., Child Labor Law,* p. 12. In Milwaukee in 1916, permits were denied more than five per cent of those applying for them. *Industrial Commission; Statistics on Child Labor,* p. 4.

94. The basis of this provision is found in the law of 1889.

mission or by some person designated by it.[95] So far as possible, those already in public service, mostly judges and school officials, are entrusted with this duty.[96] The commission has endeavored, also, to secure the coöperation of the various social and civic organizations[97] and of the employers themselves.[98]

Under the law the commission has extensive power in determining the conditions under which children may be employed.[99] It has been given a powerful leverage in enforcement, also, by a provision in the workmen's compensation law to the effect that any minor of permit age who is injured while working without a permit or while engaged in a prohibited industry, must be awarded treble compensation, the employer himself paying the extra compensation, or two-thirds of the whole. The maximum sum which may be received, when a child illegally employed is injured, is $22,815, of which the employer would be required to pay $15,210; no insurance against this hazard is permitted under the law.[100]

In the city of Milwaukee the machinery of the public school system is effectively organized to deal with attendance, health, employment, and related problems.[101] But even here, the industrial commission is in the closest possible touch with the life of the working child. An office is maintained in the city and all labor permits are issued by a deputy of the commission. A junior employment department operates in connection with the permit office and every effort is made to place in suitable occupations those children who must go to work. The department of factory inspection coöperates with the permit and employment officers; special workers,

95. *Industrial Commission, Rpt. on Allied Functions,* 1918, p. 45.

96. *Ibid.* About two hundred persons, serving without pay, give part of their time to this work.

97. *Ibid.,* Rpt. for 1917, p. 32.

98. *Ibid.,* Rpt. for 1914, p. 56.

99. *Ibid.,* Rpt. for 1914, p. 53.

100. *Ibid.,* Rpt. for 1918, p. 46.

101. The supervisor of the attendance department of the Milwaukee schools, H. R. Pestalozzi, relative of Johann Heinrich Pestalozzi, is a conspicuous figure in the child-welfare work of the city and the state. Few men understand so well as he the needs and limitations of working children. He has been an insistent advocate of methods and subject-matter adapted to these needs, and of laws so drawn and administered as to guarantee to each child adequate educational and industrial opportunities.

many of them volunteers, aid in adjusting the educational and working programs of the employed children; undesirable employers are discovered and listed; employers are instructed as to the requirements and penalties of the law, and those few who, after due notice, decline to coöperate in the interests of enforcement, are subjected to fine or imprisonment.[102]

Wisconsin has gone farther than the average American commonwealth in the direction of state enforcement of attendance, having at least attempted to secure centralized supervision. Direct responsibility for the administration of these laws is laid upon local school boards, truant officers, superintendents, and sheriffs, but the industrial commission is authorized to participate in enforcement so far as it is not secured by other agencies.[103] Following the New York practice, the commission provided for a system of monthly reports of attendance from truant officers, superintendents and teachers, intending to keep in touch with the schools of the state and to check the work of local officials.[104] Unfortunately, the duties of the commission in the administration of the labor laws have become so heavy that it has been unable to give adequate attention to school attendance.[105] The machinery is available for the type of state supervision of attendance carried on for some years in New York,[106] and now inaugurated in Pennsylvania,[107] but the industrial commission is not accepting the responsibility laid upon it by the law, the state department of education has no authority to proceed, and as a consequence those counties and cities that wish to enforce the law do so according to their respective ideals of enforcement, while those not interested may neglect the statute altogether without fear of state interference or penalty.

Evidently Wisconsin has made no striking contribution to methods of administering laws requiring the general attend-

102. *U. S. Dept. of Labor, Children's Bureau, Standards of Child Welfare,* 1919, pp. 125-131. *Indust. Com. of Wis. Rpt. on Allied Functions,* 1918, p. 49.

103. *Indust. Com. of Wis., Rpt. on Allied Functions,* 1917, p. 39.

104. *Ibid.,* 1918, p. 51.

105. *Ibid.*

106. *Supra,* p. 167.

107. *Supra,* p. 201.

ance of young children upon the means of education, yet it is not easy to overemphasize the service performed by her in pointing the way to compulsory industrial education in America. While other states were moving slowly towards the education of working children by way of voluntary evening and part-time day schools, Wisconsin, profiting by the conspicuous example of certain of the German states, inaugurated her system of compulsory continuation schools and entered upon the series of experiments leading to her present well-rounded system. For several years the pioneer work of Wisconsin was followed with keen interest by professional educators and laymen alike. Finally, Pennsylvania, in 1915, established a complete system of continuation schools requiring the attendance of all children employed on certificate. Since then, progress has been rapid. At the present time a third of all the states in the Union have enacted laws providing for some form of compulsory education for working children.[108]

108. *Seq.*, p. 256.

CHAPTER IX

SUMMARY AND CONCLUSION

In this chapter it is proposed to segregate certain of the more significant factors entering into the legislation discussed in the preceding sections, to observe their relationships, to summarize their historical evolution, and to determine their present status.

Legislative investigations as bases of compulsory measures

At the present time the progressive educational programs in the various states and the most effective legislation for the control of child labor are based upon carefully conducted investigations carried on by selected experts appointed under legislative authority. It is not difficult to find crude precedent for the elaborate child labor and educational laws of to-day in the statute of Henry IV., in 1405, requiring children to engage in regular employment if not attending school.[1] This statute was in response to the petitions of Commons based upon industrial facts which, in the judgment of the petitioners, demanded far more drastic legislation than that finally secured. Methods of obtaining data upon which laws in control of children were based apparently remained crude and inadequate in England up to the middle of the nineteenth century. In the beginning of that fruitful century, the investigations which laid the foundation for modern methods were carried on largely by private initiative and private means. By the middle of the century, however, legislative commissions were making thorough-going inquiries into industrial and educational conditions which have served as working models on both sides of the Atlantic.

In America, seventeenth century legislation relating to the employment and education of children was based upon facts of common knowledge or upon tradition. In the early national

1. *Supra*, p. 10.

period there were half-hearted inquiries of no great value, usually made at the insistent demand of the newly enfranchised working men, and not seriously intended to present facts upon which compelling laws might be built.[2] Such investigations were made by the legislators themselves and were neither extensive nor definite in character, though sometimes revealing conditions bad enough to warrant far more vigorous action than any proposed. Toward the close of the nineteenth century more definite inquiries began to be made, now conducted by committees or commissions in accordance with legislative resolutions or acts. As a rule these bodies studied with some care the industrial or educational problems assigned to them, and their reports throw much light upon conditions prevailing at the time.[3] In the first and second decades of the twentieth century, inquiries, investigations, and surveys have assumed highly specialized aspects; they have been carried out, sometimes by direct legislative orders, sometimes under the authority of boards vested with legal powers to order and support such investigations, but always under the immediate direction of trained experts not members of the authorizing bodies.[4] As might be expected, resulting legislation, based on data secured, has carried constantly diminishing evidence of political and other vested interests.

Change in attitude toward the child

Fear was the force back of the Elizabethan child labor laws compelling young children of the poorer classes to engage in productive toil, fear of poverty and of the evil effects of idleness. That same fear, likewise, was in the hearts of the colonial law-makers of 1642 and 1647, supplemented by the fear of Satan who, they were assured, ever used ignorance to damn the race. There was, to be sure, an appreciation of the earning power of children,[5] which became more pronounced in the later years of the seventeenth century, when, in the new material prosperity, the educational requirements were relaxed

2. Pennsylvania, 1822, *supra,* p. 42.
3. For example, see Mass., 1895, *supra,* p. 70f.
4. Mass., 1905, *supra,* p. 76ff.
5. *Supra,* p. 20f.

in order that thrifty parents and masters might more diligently "improve their children and servants in labor."[6] But the economic value of the child was not stressed in America until the application of power to textile machinery in the closing years of the eighteenth century put a premium upon nimble fingers and mental alertness. Under the new conditions parents found in a large family of children a very substantial source of income. No one questioned the father's right to the time and labor of his child, and early attempts to limit the employment of very young children were opposed on the grounds of unwarranted interference with the natural and holy privileges of parenthood.

The earlier legislation was not written in a spirit friendly and sympathetic to the child; rather it is typical of the stern idea of Puritan justice untempered by mercy.[7] It was not the idea of reformation but of unquestioned control which moved the law-maker as he sought to solve the social problems of his day, and in case the parent was not able to maintain a sufficient degree of control over his child, the state stood ready to assist.[8] Very naturally the employer was regarded, in a sense, as standing *in loco parentis.* The early system of apprenticeship would make this conception inevitable. Therefore, until quite recently, the interests of the employer rather than those of the child have been uppermost in the making and administration of laws regulating employment and schooling. It has not been difficult for those who were exploiting children in factories to control at least one branch of a state legislature, if action prejudicial to their interests seemed imminent.[9] Even when adequate laws finally were secured, enforcing officers usually dealt tenderly with employers who continued children on their pay rolls in defiance of restrictions.[10] In case of actual prosecution, conviction was made next to impossible by throwing upon the prosecutor the burden of proving that the child had been "knowingly and wilfully" employed. In modern

6. *Supra,* p. 26.

7. For example, the Massachusetts law of 1642, *supra,* p. 20.

8. In accordance with ancient Hebrew usages, the death penalty might be exacted if children became incorrigible. See Conn. Col. Records, p. 515.

9. *Supra,* p. 123.

10. *Supra,* pp. 49, 56, 146, 179.

legislation the interests of the child and of society have first place. Needy parents may no longer jeopardize the future of the state by denying to their children the elements of education. Employers have discovered that, after all, the labor of young children is not so profitable as had been supposed, and in case of illegal employment there is little opportunity for refuge in the ambiguous or confusing phrasing of statutes. It is now a kindly state that safe-guards the child, secures his physical and moral health, insists that he acquire the fundamentals of a literary education, puts him in possession of some industrial skill and seeks to advance him to intelligent, useful citizenship.

Prime movers for the protection of children

It is not pleasant to conclude that schools and teachers have had an inconspicuous place in the development of a public sentiment necessary to secure adequate laws for the protection and education of children. Teachers have not been anxious to receive in their well-ordered classes those who, by taste or necessity, placed foremost the bread-winning pursuits. School superintendents and other school officials empowered to enforce attendance laws often have persistently declined to discharge their duty.[11] Those interested in parochial schools have, in many instances, opposed compulsory attendance legislation, fearing that the enforcement of such laws would lead to state interference with the conduct of their schools.[12] Strangely enough a very general argument in opposition to laws requiring attendance at school, during the first three-quarters of the nineteenth century, was that such measures were undemocratic and out of harmony with American principles of government.[13]

Enfranchised working men, organized and able to command the attention of the state legislatures, were largely responsible for the earliest authorized investigations of the conditions under which children were employed.[14] Philanthropic agencies,

11. For example, Mass., *supra*, p. 63.
12. For example, Wis., *supra*, p. 212.
13. For example, Penn., *supra*, p. 176; Wis., pp. 204, 207.
14. For example, N. Y., *supra*, p. 116; Penn., p. 173.

even before labor became influential, had accomplished something, and when these two forces learned how to coöperate they became the outstanding influence in the movement in behalf of children.

Naturally enough, labor organizations have been primarily interested in restricting the employment of children, and only indirectly were they at first concerned with their schooling; philanthropy, on the other hand, was first aroused by the fact that industry was robbing children of even the elements of school education. That the forces controlled or influenced by labor and philanthropy have not been completely coördinated is evidenced by the fact that in few states has there been entire harmony in the laws relating to child labor and school attendance. In the administration of such laws there has been even less harmony.

Both labor and philanthropy have operated in the program in behalf of children through various specialized agencies, such as committees of labor unions, state departments or bureaus of labor, and state and national child labor committees. State departments of education have more recently exercised considerable influence, while teachers through state and national organizations have fallen in with the general movement.

Some of the retarding influences

Since the time of James Carter and Horace Mann there has been constant agitation for legislation intended to restrain children from severe labor and to provide for their schooling. Many causes have contributed to delay adequate legislation. Some of them have already been indicated. Selfishness of employers and poverty of parents, unwilling to sacrifice their real or fancied interests to the social good, were for years relatively constant factors. Social inertia long rendered adequate laws impossible. A few men with vested interests could easily prevent legislation, could usually divert attention from the real issues. Progress was delayed, also, by the early enactment of spineless laws, which were widely copied in various states. The Michigan attendance law of 1871, copied without substantial change in half a dozen other states, and the Massachusetts act of 1852, the first general attendance law in America, are good examples.

Religious organizations not in complete sympathy with public education have frequently resisted such state control as is implied in compulsory school attendance laws, and in several states have been strong enough to prevent legislation for years or to demand concessions which have greatly weakened the measures enacted.[15]

Possibly the element which, more than any other, has tended to delay effective control of the entire situation has been the lack of coöperation of agencies interested primarily in the restriction of child labor and those chiefly concerned in education. That child labor and compulsory school attendance represent but two aspects of a single problem is now generally recognized. Yet even to-day, while the laws themselves are usually worked out with such care as to insure reasonable harmony, there is relatively little coöperation in their administration.[16]

Exemption from the requirements of compulsory laws

In the earlier attendance laws liberal provision was made for exemption from the fixed penalties. The most persistent of the causes for exemption have been poverty of parents and lack of mental or physical ability on the part of the child, but even these claims are yielding. Most states make special provision for the education of children defective in mind or body; the most enlightened are compelling the attendance of such unfortunates upon suitable means of instruction.[17]

Under the theory that the parent was entitled to the economic service of his child, compulsory school attendance laws were long resisted. In many states the enactment of the first legislation of this character was possible only by including the provision that in case the labor of a child was necessary for the support of his parents he would be exempt from the penalties of the law. In the later development of compulsory school attendance laws it became evident that the children most

15. *Supra,* pp. 128, 147, 213.

16. In this respect Connecticut must be cited as a conspicuous exception. Here a single set of state officials is charged with the duty of keeping children in school and out of illegal employment. Even here it is not always easy to secure necessary coöperation of local officials.

17. *Supra,* p. 73.

frequently excused were precisely the ones most important to reach, since primarily, free public education was for the benefit of the poor. As early as 1889 Massachusetts, in revising her attendance laws, omitted poverty as cause for exemption from their operation. Connecticut alone of the states included in this study retains this provision, but in the administration of the law few children, if any, under fourteen years of age remain out of school because of poverty.

Legislation alone cannot dispose of the problems of poverty. Against the child who leaves school to earn food and clothing society has no case. Until a way is found to relieve the necessity which drives a child too early to bread-winning labor, at the same time preserving the self respect of both the child and his family, poverty, whether recognized as legal cause for exemption or not, will serve to shorten the desired period of schooling.[18]

Compulsory health provisions

In enacting the first compulsory education law in America the General Court of Massachusetts Bay clearly had in mind the moral as well as the intellectual and economic welfare of children. Two hundred years later, when the descendants of these Puritan law-makers were fighting for compulsory school attendance and child labor laws in Massachusetts and Connecticut, their strongest argument was that children were growing up without proper opportunity to develop their moral natures and under conditions prejudicial to health. Relatively early, the more progressive states began to exclude children from occupations regarded as physically or morally dangerous. Later, factory inspectors were given authority to remove children from such employment as seemed unsuited to their strength; and, finally, the modern state provided that no minor should enter upon dangerous employment and that no child under sixteen should leave school to engage in any sort of labor exclusive of home duties and farming, without first submitting to a thorough medical examination and securing a physician's written assurance of physical fitness for the specific

18. Philanthropy in form of scholarships is offering a temporary solution in New York City. *Supra*, p. 137. Massachusetts legalizes meals for school children at public expense, *Acts* of 1913, ch. 575.

tasks proposed. Several states have now provided for medical inspection of school children, usually authorizing school boards to establish such inspection at public expense and to require all children under their control to submit to periodic examinations. Massachusetts has taken the logical step in developing her system of free and compulsory education by requiring medical inspection in all public schools throughout the state.

With compulsory medical examinations supported by an adequate system of public school nursing, compulsory vaccination, and innoculation against various diseases, and with vocational restrictions in harmony with the physical conditions of the child, the foundation is laid for a compulsory health program of great significance.

Working papers

The history of the development of the employment certificate is the history of effective child labor legislation. In all the states included in this study, fairly representative of the American policy in this respect, the same general features appear in the evolution of working papers. The simple statement of school attendance, signed by a teacher and sworn to before a justice of the peace, as provided for in Massachusetts in 1838, was not intended to insure to the child the elements of an education, nor to keep him out of the factory. It was rather a guarantee of immunity to the employer against the penalty of the law enacted two years earlier, requiring that no child under fifteen should be employed in a factory unless he had attended school for at least three months of the preceding twelve. Employers of children were not required to demand these certificates; as a matter of fact little attention was given them, since the law was not enforced. Provisions for school attendance certificates little more effective than those of 1838 in Massachusetts were made by other states in the early stages of child labor legislation, as in Connecticut in 1842 and in New York in 1874. In Pennsylvania, not even this crude form was provided until 1889.

In the early certificates of age and schooling the oath was regarded as important. Very reluctantly, apparently, legislators and administrators came to the conclusion that such an oath was utterly valueless as evidence of age. Parents who

desired to set their young children at work were quite ready to make affidavit that they were of legal age. Even though a child was manifestly under age it was not difficult to secure an affidavit through a careless or corrupt official. Indeed, in some localities a thriving petty business was done by notaries and others competent to administer the oath, the objective on their part being the small fee which the law allowed.[19] Not until the present century did even the more progressive states begin to provide for adequate documentary evidence of age in the form of birth certificates, religious records, passports, or definite school records.

It is commonly agreed that under ideal conditions the certificate of employment should never be placed in the hands of the child but should be sent by mail directly to the employer from the office of issue; then, on termination of employment, it should be returned in the same manner to the office of issue. The experience of many years was required to develop this standard; that of Massachusetts may be regarded as typical. In this state it was found that employers were preserving age and schooling certificates after children presenting them had left their service. These papers were then assigned to other children who applied for work but who had no certificates. In 1890 a law was enacted making the certificate the property of the child and requiring that on leaving service it be returned to him.[20] This did not prove satisfactory. The child might return to school, seek a new job, or loaf in idleness until discovered by some vigilant truant officer. The next step, taken in Massachusetts in 1913, in some states earlier, was to require the employer to return the certificate, not to the child, but to the authorities issuing it. The child then, on securing the promise of employment, applies for a new certificate. Between jobs, the school authorities know precisely where he is, or at least they have data to enable them to know.

Another valuable safeguard to the working child is the employment ticket, now quite commonly demanded. Until very recently any child of proper age and literacy might secure

19. As in Pennsylvania, *supra,* p. 184, and New York, p. 127.

20. *Mass. Acts and Resolves,* 1890, ch. 299. New York still retains this plan.

working papers even if he had no definite employment in view. Under such conditions he might be out of school and idle for days or even weeks and might in the end secure work for which he was not at all fitted. Under ideal conditions the applicant for working papers must present a definite written promise of employment in which the character of the work proposed is stated. Here again Massachusetts led. As early as 1888 she required an employment ticket. This was nearly a quarter of a century before the practice became common. Now the work proposed must meet the approval of the officials empowered to issue the certificate, and in the best systems the applicant must submit to a thorough medical examination and must be certified as fit to undertake the specific tasks proposed.

There remains considerable variation in the educational requirements for working papers. The early laws merely provided that the child applying for employment, if under a certain age, must give evidence of having attended school for a minimum number of months, usually three, of the preceding twelve. As compulsory attendance laws developed, steadily advancing the minimum period of schooling, the labor laws were kept in harmony with them, until in most of the northern states all children under fourteen years of age, under sixteen if not employed and if the elementary school course or its equivalent has not been completed, are required to attend school for the full session each year. In certain states, New York and Pennsylvania, for example, an examination as to ability to read and write was required in addition to the school attendance record, the former state still adhering to the plan. In Massachusetts, where the importance of the school record has been stressed, the minimum attainment in school is such knowledge of reading, spelling, and writing as is required for the completion of the sixth grade in the local public schools. In New York, where the examination is stressed, the school record of the applicant for working papers must show that, if under fifteen, he has completed the elementary course of eight grades or its equivalent. Pennsylvania, long exceedingly lax in educational standards for working papers, now requires that the applicant, if under sixteen, must have completed the work of the sixth grade. In Wisconsin the applicant, if under

seventeen, must have completed the sixth grade.[21] In all the states here considered the young worker who has not finished the equivalent of the eighth grade of the elementary school passes automatically into the continuation school, except in Connecticut, where he must attend evening school, if one is established.

It will be observed that New York, though maintaining at least the form of an examination, requires of the applicant for working papers a longer period of schooling than does any other state in the group studied. Indeed, her requirement is not exceeded by any other state in the Union.

There is less uniformity in the method of issuing working papers than might be expected. In Connecticut the entire business is centered in the State Board of Education; in Massachusetts and Pennsylvania the local school authorities are charged with this duty; in New York the local board of health issues the papers; and in Wisconsin the industrial commission or its authorized representative must act.

Were a state to embody in its requirements for working papers the highest standards thus far attained in actual practice, its children would be permitted to leave school for labor when the following conditions had been met:

1. Certificate to be issued by some centralized authority, either by state officials or under close state supervision, to all children between fourteen and seventeen who leave school to engage in work of any kind.
2. Issue of such certificates only to those who have completed the elementary school course, unless at least fifteen years of age.
3. Adequate documentary proof of age.
4. A definite, written promise of suitable employment.
5. A medical examination showing the child to be fit to undertake the work proposed.
6. Certificate to be sent by office of issue to the employer by mail and to be returned to the office of issue in the same manner on termination of employment.
7. The child to remain in school until the papers are issued.

As to vacation permits there is some doubt. Theoretically they should not be granted. The child once at work is often

21. The seventh grade after July 1, 1920, or present record of school attendance for eight years.

reluctant to return to school at the close of the long vacation. Yet the practical argument in favor of suitable summer employment under present conditions is very strong. Perhaps the solution is the all-year school, but until the child's time is well occupied throughout the summer, the vacation working permit seems to be justified. An adequate system of supervision and inspection supported by a permanent census should insure a prompt return of summer workers at the opening of school. At present special vacation certificates are granted in all of the states of the group included in this study.

It is not possible to determine from the number of permits issued annually the number of children actually employed at any one time. Frequently a child will hold two or three positions in a single year, for each place requiring a certificate.[22]

At present the tendency is in the direction of more rather than of fewer applications for working papers. The rise and fall of the demand for child labor in the state of New York, perhaps typical for the country at large, during the past twenty years is graphically shown in the following diagram.

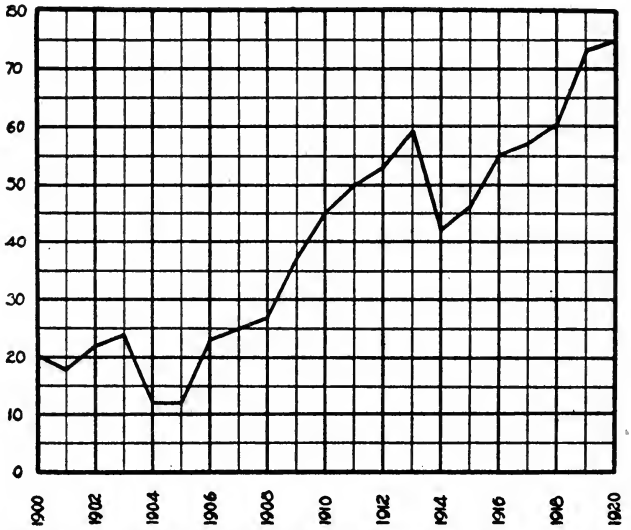

Diagram 2. Showing employment certificates issued by boards of health in the state of New York, 1900-1920. Does not include certificates issued for summer vacation only.

22. For example, Paul Houghton of Lancaster, Pa., between Feb. 4, 1920, and Feb. 16, 1921, applied for and received eleven certificates.

Direct state enforcement of attendance and labor regulations

Very naturally local government was emphasized by Englishmen in America. All functions that did not require the resources and authority of the general government were jealously guarded by the community. The Massachusetts Act of 1642, requiring the education of all children in reading and industry, was administered by the selectmen of the several towns. Schools, established in accordance with later statutes, were under the direction and control of committees. Presently well organized state school systems were developed, but with large responsibility and power vested in local units. When, in the latter half of the nineteenth century, state legislatures began to enact compulsory attendance laws, enforcement was quite naturally entrusted to local authorities. To local officials, also, was given the responsibility of enforcing the early child labor laws.

For various reasons the administration of school attendance and child labor requirements has gradually been differentiated until at present the latter are usually supervised and enforced by state agents under a central department, board, or bureau of the state government, while the former continue, with few exceptions, under local control. All available evidence indicates that, defective as the enforcement of child labor laws often is, vastly better results are obtained in this field by state agents than in the enforcement of attendance by local authorities, exception being made of the larger cities where, under highly organized administrative machinery, attendance laws are proving to be the best measures for keeping children out of illegal labor.

In the inauguration of state enforcement of child labor laws leadership again falls to Massachusetts. The law of 1866 authorized the governor to prevent the illegal employment of children through the state constabulary.[23] General H. K. Oliver, first charged with this duty, was able to accomplish little, yet his reports locate some of the problems of child labor, and his work and that of his successors throughout the state prepared the way for factory inspection inaugurated in 1877.

23. For law and discussion, *supra*, p. 57f.

Connecticut was a close second to Massachusetts in beginning a program of state enforcement. Her child labor law of 1869 directed the state board of education to carry out the provisions of the act and to this end authorized the appointment of an agent responsible to the board and vested with the necessary power to secure enforcement.[24] Gradually the duties of the board of education have been increased and its powers extended until state control of young children in school and in employment is more complete in Connecticut than elsewhere in the United States.

Of the other states included in this study, Pennsylvania enacted her first child labor law in 1848, providing for state enforcing officers forty-one years later; Wisconsin, enacting her first measure to restrict the employment of children in 1877, provided in a limited way for state enforcement in 1885; New York secured her first protective legislation in 1886, at once establishing a system of factory inspection with statewide jurisdiction. In all the states in the group, elaborate systems of state enforcement of child labor regulations are now in operation and, compared with the enforcement of the school attendance laws, fairly satisfactory results are obtained.

It is not difficult to see why the administration of school attendance laws remained almost exclusively in the hands of local officials while more and more the state has concerned itself with those regulations more directly affecting labor. It has been shown that in the early colonial period children were under the same means of control, both as to literary education and industry. Legislators of the early nineteenth century apparently assumed that children not employed in factories would be kept in school by their parents and, wishing to assure the factory child the tools of learning, provided that he might not be employed unless he had first fulfilled the attendance requirements. Very naturally, enforcement was left to local communities, usually to school officials, who fairly represented those most intimately connected with the child's wel-

24. Law and discussion, *supra*, p. 94f. Two men, serving successively as agents of the board, bring the record down to the present decade; Henry M. Cleveland occupying the position in the years 1869-1871, Giles Potter in the years 1872-1912.

fare. Forces the operation of which had not been foreseen, poverty, greed, indifference, parents' traditional rights in children, rendered those laws inoperative. In Massachusetts the State Board of Education sought to secure the enforcement of the attendance requirements at the hands of state officials, but since education had been confided to local communities for two centuries, and since no sufficiently powerful social forces demanded a departure from former customs, no action was taken. When labor began to be able to express itself, it demanded that young children be excluded from factories under state authority, but, less sensitive as to education, made no direct demands as to school attendance. Members of the labor party were elected to the law-making body; political leaders committed themselves to the labor program; the public attitude towards the employer changed; the legislature grew sensitive to the demand that the laws should operate, even against the immediate financial interests of manufacturers; and state authority was invoked to administer the child labor laws. At first there was merely a weak, ineffectual method of factory visitation, later to develop into the vigorous system of control now in operation.

Partly by imitation, partly through the natural order of development, the methods of controlling the labor and school attendance of children in Massachusetts came to prevail in other states. Connecticut, as has been shown, committed herself to a large degree of state administration in respect to both. Other states, like Massachusetts, early adjusting their executive machinery for the enforcement of child labor laws, are but slowly proceeding in the direction of state control of education.

An expedient quite commonly adopted in the various states, and pointing toward state supervision of attendance laws, is that of giving the state department of education authority to withhold from any community not complying with the regulations a portion of the state funds. This means of penalizing the rebellious or indifferent community was adopted in Massachusetts in 1865. In most states it is a potential means of discipline seldom or never exercised. Its real effectiveness has been demonstrated in New York, however, where for many years this means of penalizing recalcitrant school districts has

been employed with satisfactory results.[25] Here a force of state school inspectors keeps the state department in fairly close touch with the field at large.

Pennsylvania, in her law of 1915, took a step toward state control decidedly in advance of the half-hearted method of withholding state funds. In case any district neglects to enforce the attendance requirements the state board of education is authorized to appoint attendance officers in the delinquent district and bring the law into operation; the salary of such officers and all expenses incurred in enforcement being paid by the state, charged against the district, and deducted from the district's share of the state school funds.[26]

Direct state aid to education, now supplemented under special legislation by Federal aid, is developing, as a necessary accompaniment, state inspectorial and supervisory service. It is only a question of time until the matter of attendance will be receiving the attention of such special officers, the old, discredited local machinery will either be abandoned or, more likely, vitalized by state supervision and coöperation, and the great waste of non-attendance will be eliminated.

Federal coöperation

That national authority is essential to an effective campaign against child labor and in support of universal education has long been apparent. States with the most advanced standards share boundaries with those notoriously indifferent to the best interests of children. Entire sections of the country have been reluctant to remove young children from productive employment. The educational and higher industrial opportunities of a child have been determined far too completely by the locality in which he chanced to be born. To secure a degree of uniformity in opportunity and in standards, Federal interference has come to be regarded as a necessary and logical step.

Organized labor is the agency to which, more than to any other, credit must be given for stimulating national interest in the fight against child labor. In its first constitution the American Federation of Labor declared itself in favor of the

25. *Supra,* p. 168.

26. *Laws of* 1915, No. 177. Pennsylvania is now establishing state supervision of attendance and has several inspectors in the field.

complete abolition of the employment of children under fourteen years of age.[27] Consistently this organization has advocated such uniform action among the states, supported by Federal amendment, if necessary, as would insure adequate protection to women and children everywhere.[28] It has entered actively into national as well as state campaigns having for their aim more favorable educational and industrial conditions.[29]

Coöperating with organized labor, often guiding its forces, always affording the benefit of scientific foundation, has been a considerable group of students of practical philanthropy and social economics. By means of books, lectures, and popular or semi-popular magazine articles, public opinion was led to the conclusion that child labor and universal education were national problems requiring the supervision and general control of the Federal government. Every university and college was enlisted in the work of propaganda; courses were organized, investigations were put under way, University settlements were established, all tending to create a permanent interest among educated people in the modern problems of child welfare and the function of government in their solution.[30] Tangible evidence of the effectiveness of this volunteer work is seen, also, in the Federal Children's Bureau, established as a bureau in the Department of Labor in 1912, and since then an effective official agency in the campaign in behalf of children and women.[31]

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27. *American Federation of Labor,* 1919, p. 170. This plank, adopted in 1881, was opposed by a considerable element on the grounds that its enforcement would be an interference with individual rights. *Proceedings,* 1881, p. 3.

28. *E. g., Proceedings American Federation of Labor,* 1889, p. 23; 1890, p. 40; 1910, p. 224.

29. As early as 1887 this organization was demanding that the teaching of government, Americanization be included in the compulsory education program. *Ibid.,* 1887, p. 30; 1888, p. 27.

30. Men and women to the number of a score or more attained nation-wide prominence as leaders in the practical studies and in field work; among them, Owen R. Lovejoy, secretary since 1907 of the National Child Labor Committee, Samuel McCune Lindsay, first secretary of that organization, Florence Kelley, active in the Consumers' League, and Julia Lathrop, now Chief of the Federal Children's Bureau, have been outstanding figures.

31. Bureau in Dpt. of Commerce and Labor, 1912; transferred to Dpt. of Labor, 1913.

The first serious consideration given child labor in the United States Congress was in 1907, when the Beveridge-Parsons bill was under discussion. This bill was not permitted to come to a vote in either House, owing to a wide-spread conviction that it was unconstitutional.[32] In 1915 a bill similar in character passed the House of Representatives but did not reach a vote in the Senate.[33] The following year this measure, then known as the Keating-Owen Bill, passed both Houses by large majorities, and went into effect September 1, 1917.[34]

This law was permitted to operate for only nine months, but during that time its effectiveness was demonstrated in widely separated sections of the country.[35] It was declared unconstitutional in the Federal Court of the Western District of North Carolina, Judge Boyd presiding, and on June 3, 1918, the decision was affirmed by the United States Supreme Court, four of the nine justices dissenting.[36]

The Keating-Owen law was based upon the power of Congress to regulate commerce and prohibited interstate commerce in articles in the production of which the labor of children had entered. A new law, based upon the power of Congress to tax, was enacted, going into operation on April 25, 1919. On August 19 of that year, this measure was declared unconstitutional in the same court that passed upon its predecessor. The case has not, at this writing, reached the Supreme Court, and pending its decision the law is in operation throughout the country.

Whether or not the present attempt of the Federal government to control the labor of children is successful, is of relatively small consequence. The significant point is that the American people are determined that the abuses of child labor are to cease and that the national government must coöperate with the progressive states in fixing standards and enforcing requirements. If constitutional limitations, fixed a century

32. Monroe, *Cyclopedia of Education*, "Child Labor."

33. The Palmer-Owen Bill.

34. See Thomas I. Parkinson, "A Brief for the Keating-Owen Bill," *Child Labor Bulletin*, February, 1916.

35. *Child Labor Bulletin*, Feb., 1918, p. 208; Nov., 1918, p. 160.

36. *Ibid.*

and a quarter ago, interfere with the program, an amendment will clear away the obstructions.

Though the Federal government has not entered actively into the campaign for universal compulsory education, it has given encouragement through such measures as the Smith-Hughes law. Federal aid, available under certain conditions, is serving to stimulate the creation of vocational and continuation schools, attendance upon which is usually compulsory within certain age limits.[37] For example, Iowa is establishing continuation schools compulsory upon communities where fifteen or more children are employed on certificate, and requiring attendance upon them. This advanced step on the part of a state always conservative in school legislation was taken in response to the invitation to share in the Smith-Hughes funds.[38] It seems probable that Congress will presently be vested with such power as will enable it to establish minimum educational standards throughout the Union, and to prevent the general employment of children until they are at least fourteen years of age.

Penalties

The community failing to support a school in accordance with the provisions of the Massachusetts legislation of 1647 was to be mulcted to the extent of five English pounds. This was a heavy penalty, for the total salary of a professional schoolmaster was only five or six times that amount. The modern survival of this penalty is found in the common practice of withholding from a district that fails to comply with attendance or other school requirements a part or all of the general state funds.[39]

It was provided, also, in the early Colonial legislation, that officials failing to enforce the school laws might be fined according to the discretion of the court. The principle of this

37. *Third An. Rpt. Fed. Board for Voc. Ed.*, p. 21.

38. *Laws of Iowa*, 1919, chs. 34, 139. Missouri is establishing continuation schools and is not only requiring the attendance of children under sixteen, lawfully employed, but includes all under eighteen, whether employed or not, if they have not completed the elementary school course and are not in attendance upon any other school. *Laws of Missouri*, 1919, amending Art. 6, ch. 106, of the statutes.

39. For example, New York and Pennsylvania, *supra*, pp. 168, 193.

penalty very frequently survives in modern legislation, though there is little evidence of its application.[40]

Penalties for the violation of modern attendance laws never fall upon the child, except that in case of incorrigibility he may be committed to a school suited to his needs. Yet in the earlier nineteenth century legislation, truant children might be fined or even committed to prison.[41]

In general, school attendance laws have always carried lighter penalties than have those regulating the labor of children. There is a well-marked tendency also to give a delinquent parent every opportunity to return his child to school and thus avoid the penalty.[42] Experience has shown that a relatively small fine, with a jail sentence at the option of the court, will serve, in most cases, to insure the coöperation of parents in keeping children in school. A large fine is a distinct handicap, as few judges will impose it upon parents of small means.

Until well toward the close of the nineteenth century, employers were rather carefully protected from the penalties of child labor laws. Not only was authority to prosecute left to officials not likely to have any vital interest in enforcement,[43] but it was frequently required that the prosecution prove that the violation had been "willfully and knowingly" committed.[44]

In attempts to encourage enforcement some of the early laws offered a portion of the penalties recovered to the prosecutor.[45] In at least one instance it was provided that half of the penalty recovered should go to the child illegally employed.[46]

Of the states included in this study, Pennsylvania offers

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40. Wisconsin provides that any teacher or school officer failing to make the required reports on attendance is liable to a fine not to exceed twenty-five dollars, half the sum recovered going to the person bringing action, half to the district. *Laws of Wis.*, 1907.

41. *Mass. Acts and Resolves*, 1850, ch. 294; 1852, ch. 283. *Conn. Rev. Statutes*, 1866, ch. 4.

42. The first compulsory attendance law of Pennsylvania, 1895, provided for a fine upon delinquent parents of a sum not to exceed two dollars, but made provision for appeal and provided, further, that before such fine was imposed the offending parent should be notified of his liability in writing and given opportunity to comply with the law. *Laws of Penn.*, 1895, No. 53.

43. *Mass. Acts and Resolves*, 1842, ch. 60. *New York Laws*, 1896, ch. 384.

44. *New York Laws*, 1886, ch. 409.

45. *Mass. Acts and Resolves*, 1842, ch. 60. *Penn. Laws*, 1849, No. 415.

46. *Penn. Laws*, 1848, No. 227.

mildest treatment to parents violating the attendance law, the penalty for the first offense being a fine of not over two dollars, with a maximum of five dollars for each subsequent offense. A jail sentence of not over five days is provided in case of failure to pay the fine. Connecticut and Massachusetts fix no minimum penalty, but the maximum in the former is five dollars, in the latter twenty dollars. In New York a first offense is punishable by a fine of five dollars or a jail sentence of five days, with a fine of not over fifty dollars or a jail sentence of not over thirty days, or both fine and imprisonment, for each subsequent offense. The Wisconsin law fixes as the penalty a fine of not less than five dollars nor more than fifty dollars, with costs, or imprisonment for not over three months, or both fine and imprisonment.

For violation of the child labor laws, New York and Massachusetts provide the most drastic penalties. In New York any person employing a child in violation of the law may be fined for the first offense not less than twenty-five nor more than fifty dollars and for subsequent offenses not less than fifty nor more than two hundred dollars. In Massachusetts no minimum penalty is fixed, but the fine may be as high as three hundred dollars, or, if the court elects, the offender may be sent to jail for not over six months, or there may be both fine and imprisonment. For each day of illegal employment after notice has been given, the offender is liable to a fine of not less than twenty nor more than one hundred dollars.

There is a tendency to fix penalties with widely separate minima and maxima, leaving large discretionary powers to the courts. As juvenile and children's courts develop, still larger discretionary powers may be expected, the objective being the education of both parents and children rather than their punishment.

Decrease in illiteracy

Unfortunately little reliable material is available upon which conclusions as to the actual literacy of the population of the several states may be based. The most reliable sources are the several Federal censuses, but these leave much to be desired. The first census attempting to gather information on this point is that of 1870. A comparison of the proportion of

illiteracy reported for that year and for the year 1910 is presented below.

TABLE II

Illiteracy in the United States and in the five states included in this study in the years 1870[47] *and* 1910[48]

	Total population		Per cent of illiteracy	
	1870	1910	1870	1910
United States	38,558,371	91,972,266	14.6[49]	7.7
Connecticut	537,454	1,114,756	5.5	6.0
Massachusetts	1,457,351	3,366,416	6.7	5.2
New York	4,382,759	9,113,614	5.5	5.5
Pennsylvania	3,521,951	7,665,111	6.3	5.9
Wisconsin	1,054,670	2,333,860	5.2	3.2

It will be observed that in the forty years between the censuses compared, the proportion of illiteracy among persons ten years of age and over in the United States as a whole has been reduced practically one-half. With the single exception of Wisconsin, there has been little change in any of the states included in this study. These states have all received large numbers of immigrants during this period, many of whom have been unable to read and write in any language. While it is certain that the relatively high per cent of illiteracy now prevailing in these states cannot be laid entirely to the immigration of illiterate adults, Table III suggests the significance of this element.

TABLE III

Partial classification of illiterates ten years of age and over in the group of states included in this study, based on census of 1910

	All Classes		Native Parentage		Foreign Born Whites	
	Illiterate	Per cent	Illiterate	Per cent	Illiterate	Per cent
Connecticut	53,665	6.0	1,707	0.5	49,202	15.4
Massachusetts	141,541	5.2	3,428	0.4	129,412	17.7
New York	406,020	5.5	21,292	0.8	362,025	13.7
Pennsylvania	354,290	5.9	46,054	1.4	279,668	20.1
Wisconsin	57,769	3.2	3,223	0.6	43,662	8.7

Since data as to literacy are based upon answers given orally to the enumerators and not upon any test or other evidence, it is safe to assume that the Federal census gives a generous interpretation of existing conditions. The reports of the Sur-

47. *Compendium of the Ninth Census,* pp. 8 and 456.

48. *Abstract of the Thirteenth Census,* p. 245.

49. Probably incorrect. Census of 1880 reports total illiteracy of 17 per cent.

geon General relative to the literacy of the men coming into the army under the selective draft indicate that a much larger proportion of the population than that shown by the census is unable to make intelligent use of the printed or written page. It is clear that, even in the most progressive states, the battle against illiteracy is not yet won.

Even with the imperfect data available, it can be shown that illiteracy in the states considered has not decreased at such a rate as to make it comparable, inversely, with the increase in school attendance. It is to be noted, however, that even in these progressive states a large proportion of the children and youth of school age is not under any kind of instruction.

TABLE IV

Showing average percentage of population of usual school age, five to eighteen, reported in attendance at periods indicated, with illiteracy of population ten years of age and upward. Based upon census returns and reports of U. S. Bureau of Education

DIVISION	1870		1880		1890		1900		1910		1915
	Attendance	Illiteracy	Attendance	Illiteracy	Attendance	Illiteracy	Attendance	Illiteracy	Attendance	Illiteracy	Attendance
Connecticut	45.7	5.5	47.2	5.7	47.6	5.2	53.5	5.9	57.2	6.0	63.9
Massachusetts	53.6	6.7	54.5	6.5	53.4	6.2	58.7	5.9	58.4	5.2	61.2
New York	39.1	5.5	42.8	5.5	43.6	5.5	49.2	5.5	53.5	5.5	56.4
Pennsylvania	51.2	6.3	47.7	7.1	46.5	6.7	50.8	6.1	53.2	5.9	57.1
Wisconsin	36.7	5.2	38.4	5.8	39.7	6.7	50.4	4.7	50.	3.2	54.1

The change in attendance during the period 1870-1915 is graphically indicated by Diagram III, page 254. There would be little variation in a curve showing the decrease of illiteracy during the same period in this particular group of states.

Continuation or part time schools

No phase of recent educational development is more striking than this. The part-time school is, of course, an ancient institution employed in Germany and England, and later in certain industrial centers in America, to give the working child a meager training in the rudiments. To-day the part-time school is concerned with the child who has already mastered the tool subjects, has passed well into adolescence, and is leav-

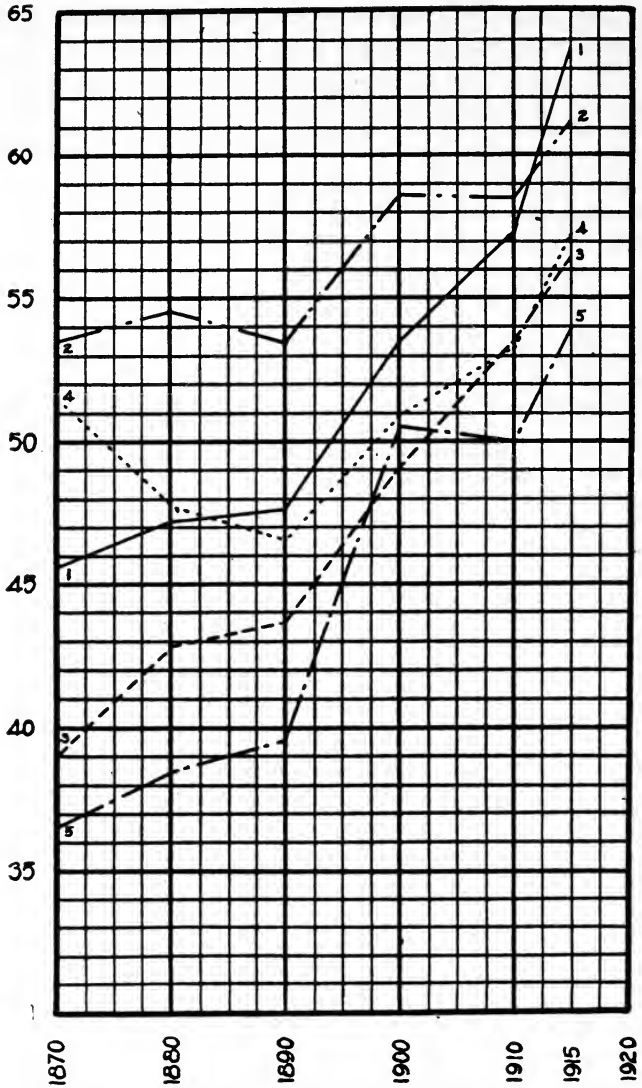

Diagram 3. The percentage of school population between ages five and eighteen actually in attendance at periods indicated: 1, Connecticut; 2, Massachusetts; 3, New York; 4, Pennsylvania; 5, Wisconsin.

ing school for remunerative employment or perhaps to learn a trade.

It is the purpose of the modern part-time school to keep the

youth under educational influences until he has almost reached maturity and has become fairly established in habits of thought and action. The courses of study are designed to appeal to his vocational interests so that from this center there may be built up in the young citizen those ideals which society has found most imperative.

Massachusetts has the honor of being the first American state seriously to consider the industrial needs of her youth,[50] but less conservative Wisconsin put in operation the first compulsory part-time or continuation day-schools in the United States. After observing this experiment for four years Pennsylvania, in 1915 made provision for a state system of compulsory schools, to be followed soon by other states until in

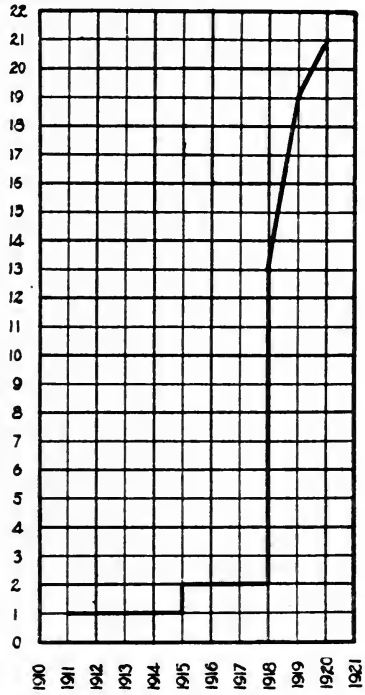

Diagram 4. The legal establishment of state systems of part-time or continuation schools with compulsory attendance of working children.

50. *Supra*, p. 76ff.

1920 no fewer than twenty-one states have made legal provision for some sort of part-time school attendance upon which is compulsory for certain adolescents not receiving instruction in full time schools. The following diagram indicates the rapid development of this means of education during the closing years of the decade.

America has borrowed freely from the German states in the development of her ideals of continuation education. There is a decided tendency, however, to organize these schools as an integral part of the public school system, the local boards of education being made responsible for their organization and management.[51] Usually there is an advisory board representing the local trades and industries, either appointed by the local board of education or closely connected with it by other relations. The state, in all the systems examined, gives generous aid and the Smith-Hughes funds are made available when requirements are met. The states retain a considerable degree of control over these schools, indicating a movement towards more centralized administration. Outside the larger cities of Wisconsin the continuation schools are so new that standards are not yet well established. The classes usually meet in rooms not well adapted to the purposes of instruction, and equipment for industrial work is often lacking. With the further development of the junior high school more adequate provision will doubtless be made for this type of education.

Outlook

The supervision and control of the labor and education of children in these five states must not be regarded as typical for the United States as a whole, but rather as indicative of the national attitude. It may reasonably be expected that the standards already attained by this group of states will be reached by the most backward groups in a relatively short time. In none of these states may a child engage in remunerative employment, except it be in agriculture or in domestic service, until he is fourteen years of age. In all, he must re-

51. In Wisconsin there has been heated discussion over the relative merits of single and dual boards of control. Here industrial education, including part-time education, has been kept more distinctly separate from the regular public schools than elsewhere. *Supra*, p. 220ff.

main in school until he is sixteen unless legally employed; in one state in the group, Wisconsin, the period of compulsory schooling is extended to seventeen; in another, New York, it is eighteen. In four of the five states the child who leaves the full-time school to go to work must remain under educational influences until at least sixteen, even though regularly employed, attendance upon part-time schools being compulsory. In addition to a minimum age for employment, all of these states have established certain minimum educational standards, one, New York, forbidding the employment of any child under fifteen unless he has completed the elementary school course.

It appears that in the near future all children of normal ability will be required to complete a school course of at least eight years before going to work, and that after entering upon employment they will be required to attend continuation schools for two or three years longer. Since the upper years of the present elementary course are giving way to secondary work, it is to be expected that practically all children will presently have the advantage of at least two years of secondary schooling before entering upon regular employment and the more highly specialized work of the part-time school.

In certain portions of the country where standards of education and employment have been notably low, the realization of this program might appear remote, but since the Federal government is definitely committed to a policy of interference with the employment of young children and to the support of special types of education, the process of leveling up to the progressive standards developed by the more favored group of states will doubtless be rapid. That the movement to protect children and insure for them a longer period of education of a type adapted to their industrial needs, is not confined in the United States is evidenced by the English Education Act of 1918, worked out while the country was still engaged in bitter war.[52] That it is international in scope may be proven by the "Draft Convention" of the International Labor Conference of the League of Nations.[53]

52. See I. L. Kandel, *Education in Great Britain and Ireland,* 1919.
53. *The American Child,* Nov., 1919, p. 186ff.

From the "Statute of Labourers" of Edward III to the Keating-Owens act there may be traced the relatively steady development of an ideal. It seems a far stretch from the act of Henry IV, in the year 1405, providing that attendance at school may exempt a child from the penalties of the law requiring all children of the non-landholding classes to be regularly employed, to the modern provisions that all children must remain under educational influences until physical maturity is reached. But the way is marked very definitely by the great statutes of Henry and Elizabeth, by the Massachusetts law of 1642, by the early attempts of the states to control the labor of children, and by the epoch-making battles of the nineteenth century in support of free schools with compulsory attendance thereon. In this period the conception of government has changed utterly among English speaking people; ideals as to the child's relations to industry and to education have almost exactly reversed themselves; yet there remains constant the principle that the welfare of the state demands a citizenship with established habits of industry and thrift; that it is the duty of the state to require the formation of such habits; and that to secure these ends a certain degree of public control of young children in regard to their labor and training is essential.

The early English laws were enacted by the property owners for the control of the laboring class only just emerging from serfdom. Much of the modern legislation in behalf of children has been forced upon the employer by enfranchised labor rendered independent or at least formidably influential through organization. The instrument once employed by autocracy to control a subordinate class now, in the hands of democracy, is serving to secure to all children equality of opportunity in the struggle for industrial and intellectual freedom.

BIBLIOGRAPHY

American Economic Association, Publications. Vols. IX, X.

American Federation of Labor; History, Encyclopedia, Reference Book; Compiler, William C. Roberts. 1919.

American Federation of Labor; Proceedings, 1881, 1887, 1888, 1889, 1890, 1910.

Annals American Academy of Political and Social Science, Vol. XXV, XXVII.

Ashley, William James, English Economic History and Theory. 1894.

Bagnall, William R., The Textile Industries of the United States. 1893.

Bagnall, William R., Samuel Slater and the Early Development of the Cotton Manufacture in the United States. 1890.

Baintree Records, Baintree, Mass., Edited by Samuel A. Bates.

Barnard, Henry, American Journal of Education, Volumes IV, XII, XIV, XV.

Barnard, J. Lynn, Factory Legislation in Pennsylvania. 1907.

Boston, Record Commissioners, Reports of.

Boston Town Records, In reports of Record Commissioners.

Bourne, Oland, History of the Public School Society of New York City. 1870.

Bruce, Philip Alexander, Economic History of Virginia in the Seventeenth Century. 1896.

Bruce, Philip Alexander, Institutional History of Virginia in the Seventeenth Century. 1910.

Cambridge, Massachusetts, Records of the Town of, 1630-1703. 1901.

Carlton, Frank T., Education and Industrial Evolution. 1908.

Clews, Elsie W., Educational Legislation and Administration of the Colonial Governments. 1899.

Collections Massachusetts Historical Society, Volumes I, VI, IX; Series Three, Volume III; Series Five, Volumes V, VI, VII; Series Six, Volume IV; Series Seven, Volumes VII, VIII.

Collections Old Colony Historical Society, Volume II.

Commons, John R., Races and Immigrants in America. 1908.

Commons, John R. and others, Documentary History of American Industrial Society. Volumes V and VI. 1910-1911.

Connecticut, Public Records of the Colony.

Cunningham, William, Growth of English Industry and Commerce. 1896.

Currier, John J., History of Newbury, Mass. 1902.

Dexter, Edwin G., History of Education in the United States. 1904.

Dobbs, A. E., Education and Social Movements. 1918.

Dorchester Town Records; In Boston Record Commissioners' Reports.

English Statutes, Statutes of the Realm from Magna Charta to the end of the Reign of Queen Anne. Copy in Columbia Law Library.
Fairchild, Fred R., Factory Legislation of the State of New York. 1905.
Federal Board of Vocational Education, Third Annual Report. 1920.
Fiske, John, American and Political Ideas. 1885.
Fiske, John, The Beginnings of New England. 1896.
Fitch, Chas. E., History of the Common School in New York. 1904.
Gibbins, Henry de Beltgens, Industry in England. 1907.
Hartford Town Votes, Connecticut Historical Society. 1897.
Henderson, Charles Richland, Modern Methods of Charity. 1904.
Hutchins and Harrison, History of Factory Legislation. 1907.
Jernegan, Marcus W., Compulsory Education in the American Colonies. School Review, December, 1918.
Justin, Winsor, Memorial History of Boston. 1880.
Kandel, I. L., Education in Great Britain and Ireland. 1919.
Kelley, Florence, Judge-Made Ignorance in Pennsylvania. Article in Charities, Volume XVI.
Kuhns, Oscar, German and Swiss Settlements of Colonial Pennsylvania. 1901.
Leach, Arthur F., English Schools at the Reformation. 1896.
Leach, Arthur F., The Schools of Medieval England. 1915.
Lindsay, Samuel McCune, Annals Academy Political and Social Science, Vols. XXV, XXVII.
Lodge, Henry Cabot, Works of Alexander Hamilton, Vol. III. 1898.
Mann, Horace, Lectures and Annual Reports. Edited by Mrs. Mary Mann. 1867.
Martin, George H., Evolution of the Massachusetts Public School System. 1894.
Mather, Cotton, Diary, in Collections of Massachusetts Historical Society, Seventh Series, Volumes VII, VIII.
Monroe, Paul, Cyclopedia of Education. 1913.
Montmorency, James E. G. de, The Progress of Education in England. 1904.
Montmorency, James E. G. de, State Intervention in English Education. 1906.
National Child Labor Committee, Reports, Files.
New England Association of Farmers and Mechanics, Report of the Educational Committee of; in Documentary History of American Industrial Society, Volume V.
New York Child Labor Committee, Minutes, Reports, Files.
New York City, Director of Attendance, First Report, 1916; Second Report, 1918
New York City, School Reports. Entire Series to 1917.
New York City, School Inquiry, Report of Committee on. 1912.
Nicholls, Sir George, History of the English Poor Law. 1860.
Nourse, Henry S., Early Records of Lancaster. 1884.
Old South Leaflet No. 135, Old South Work, Boston, Mass.

Otey, Elizabeth, Woman and Child Wage-Earners in the U. S., Volume VI. 1910.
Palfrey, John Gorham, History of New England. 1890.
Parker, S. C., History of Modern Elementary Education 1912.
Pennsylvania Magazine of History, Volume XXXVII.
Perrin, John W., History of Compulsory Education in New England. 1896.
Persons, Charles Edward, Labor Laws and their Enforcement. 1911.
Pittsburg School Reports, 1912, 1914.
Plymouth Colonial Records, Volumes II and IX.
Proceedings Massachusetts Historical Society, Second Series, Volume IV.
Proud, Robert, History of Pennsylvania. Written, 1760-1770.
Publications Colonial Society of Massachusetts, Volume XVII.
Randall, S. S., History of the Common School System of New York. 1871.
Records of Colonial Massachusetts Bay, Volumes I, II, III, IV, V.
Sewell, Samuel, Diary, Volumes V, VI, VII, in Collections of Massachusetts Historical Society, Fifth Series.
Simons, A. M., Social Forces in American History. 1911.
State Documents and Reports.*
Connecticut.
Bureau of Labor Statistics, Reports, 1886, 1889, 1892-1893, 1894, 1895.
Factory Inspector, Report, 1914.
State Board of Education, Reports, 1846, 1848, 1851, 1860, 1866, 1867, 1870, 1871, 1872, 1873, 1874, 1875, 1878, 1879, 1880, 1881, 1883, 1884, 1886, 1887, 1889, 1890, 1897, 1898, 1899, 1912, 1913.
Statutes of Connecticut, Acts of 1838, 1855, 1856, 1866, 1871, 1872, 1886, 1893, 1895, 1899, 1902, 1903, 1905, 1911, 1913, 1919.
Massachusetts.
Acts and Resolves of the Province of Massachusetts Bay, Authorized Edition of 1867.
Acts and Resolves, 1837, 1842, 1843, 1850, 1852, 1862, 1865, 1866, 1867, 1869, 1870, 1871, 1873, 1874, 1876, 1878, 1879, 1880, 1883, 1885, 1887, 1888, 1889, 1890, 1895, 1896, 1897, 1898, 1902, 1904, 1905, 1906, 1909, 1912, 1913, 1914, 1915, 1916, 1919.
Bureau of Statistics of Labor, Reports, 1872, 1873, 1874.
Chief of State Detective Force, Report, 1878.
Commission on Industrial Education, Reports, first and second.
Laws and Resolves of Massachusetts, 1788-1789.
Legislative Documents, not otherwise listed.
House, 1845, No. 50; 1849, No. 95; 1851, No. 179; 1866, No. 98.
Senate, 1844, No. 41; 1855, No. 3; 1856, No. 3; 1868, No. 21; 1869, No. 44; 1873, No. 1; 1874, No. 33; 1875, No. 50.
State Board of Education, Reports, 1838, 1839, 1842, 1845, 1847, 1849, 1850, 1853, 1862, 1863, 1864, 1865, 1868, 1869, 1870, 1871, 1872, 1874, 1880, 1882, 1886, 1887, 1889, 1891, 1895, 1897.

* Not specifically listed elsewhere in bibliography.

State Board of Labor and Industry, Reports, 1914, 1915, 1916, 1917, 1918, 1919.

New York.

Department of Education, Reports, including reports of Superintendent of Public Instruction, 1832, 1849, 1852, 1875, 1887, 1890, 1893, 1896, 1904, 1906, 1907, 1908, 1909, 1911, 1912, 1913, 1914, 1916.

Department of Labor, Reports, including reports of Bureau of Statistics of Labor, 1884, 1886, 1911, 1913.

Factory Investigating Commission, Reports, 1912, 1913, 1915.

Laws, 1831, 1853, 1867, 1874, 1886, 1887, 1889, 1892, 1894, 1895, 1896, 1901, 1903, 1905, 1907, 1908, 1909, 1910, 1912, 1913, 1915, 1916, 1917, 1918, 1919.

Legislative Documents not otherwise listed.

Assembly documents, 1832, No. 308; 1836, No. 233; 1853, No. 94; 1855, No. 3; 1886, No. 2.

Senate Journal, 1849; Senate documents, 1889, No. 40.

Reinhardt Commission, Report, 1896.

Pennsylvania.

Bulletins Bureau of Vocational Education, No. 5, No. 8.

Bureau of Industrial Statistics, Reports, 1873, 1874, 1885, 1886, 1892.

Education Department, Reports, 1837, 1844, 1848, 1853, 1857, 1867, 1870, 1871, 1873, 1874, 1880, 1881, 1891, 1892, 1893, 1894, 1901, 1907, 1909, 1914.

Factory Inspector, Reports, 1893, 1894, 1899, 1900, 1902, 1904, 1906, 1908, 1909, 1912.

Laws, 1834, 1848, 1849, 1855, 1887, 1889, 1893, 1895, 1897, 1899, 1901, 1905, 1907, 1909, 1911, 1913, 1915.

Wisconsin.

Bureau Labor Statistics, Reports, 1884, 1886, 1889, 1898, 1900.

Department of Education, Reports, 10th, 13th, 16th, 19th, 1869, 1871, 1873, 1874, 1880, 1886, 1892, 1896, 1904, 1905.

Industrial Commission, Report on Allied Functions, 1914, 1917, 1918.

Industrial Education, Bulletins of State Board, No. 3, 1916; No. 12, 1916.

Laws, 1873, 1878, 1879, 1883, 1887, 1889, 1891, 1895, 1899, 1901, 1903, 1907, 1911, 1913, 1915, 1918.

Legislative Documents.

Assembly Journal, 1871, 1889.

Senate Journal, 1870.

Steiner, Bernard C., History of Education in Connecticut. 1893.

Stockwell, Thomas B., History of Public Education in Rhode Island. 1876.

Strong, John, History of Secondary Education in Scotland. 1909.

Tawney, R. H., The Agrarian Problem in the Sixteenth Century. 1912.

Thwaites, Reuben Gold, Wisconsin. 1891.

Towles, John K., Factory Legislation of Rhode Island, in Am. Econ. Assn., 3d series, Volume 9.
Toynbee, Arnold, The Industrial Revolution in England. Edition 1896.
United States Commissioner of Education, Reports of.
United States Census, 9, 13.
United States Department of Labor, Children's Bureau, Publications.
University of State of New York, Bulletin No. 631. 1917.
Updegraff, Harlan, Origin of the Moving School in Massachusetts. 1908.
Watertown Records, Published 1894.
Weber, Samuel Edwin, The Charity School Movement in Colonial Pennsylvania. 1905.
Weedon, William B., Economic History of New England. 1891.
Weyl, Walter, The New Democracy. 1916.
Whittelsey, Sarah Scovill, Massachusetts Labor Legislation. 1900.
Wickersham, James P., The History of Education in Pennsylvania. 1886.

VITA

The author of this dissertation, Forest Chester Ensign, was born in Defiance County, Ohio, March 22, 1867. He received his early education in the district schools, and in a private normal school at Fayette, Ohio. In 1895 he was graduated from the Iowa State Normal School, and in 1897 from the College of Liberal Arts of the University of Iowa. He taught in the Rural Schools during the year 1892-1893. He served as High School Principal first in Iowa City, then in Council Bluffs during the years 1897-1905, resigning in the latter year to become University Inspector of High Schools. In 1911 he became Registrar and Examiner at the University of Iowa and served in this capacity and as Dean of Men until 1915, when he became Professor in Education in the same institution. He was registered for part-time work in the Graduate College of the University of Iowa during the years 1897-1900 and 1905-1911, and was granted the degree of Master of Arts in 1900. He was a student at Harvard during the summer session of 1905, and at Teachers College, Columbia University, during the year 1915-1916 and the summer sessions of 1916 and 1917.

His principal publications are as follows:

The Care of the Insane in Iowa. *Bulletin of Iowa State Institutions,* Vol. II, No. 1, 1900.

County and City Prisons in Iowa. *Iowa Conference of Charities and Correction, Proceedings,* 8:55-62, 1905.

The State University and the Public High School. *Iowa Alumnus,* 5:173-177, 1908.

The Accredited High School. 29p. *Bulletin of the State University of Iowa,* n. s. 185, 1909.

County and City Prisons in Iowa. *Iowa Conference of Charities and Correction, Proceedings,* 10:39-52, 1909.

The North Central Association. *Midland Schools,* May 1909.

Relation of our Educational System to the Problems of Poverty. *Iowa Conference of Charities and Correction, Proceedings,* 12:43-45, 1910.

Recent Social Legislation in Iowa. *Iowa Conference of Charities and Correction, Proceedings,* 13:15-21, 1911.

State Supervision of County and Municipal Jails and Prisons. *Iowa Conference of Charities and Correction, Proceedings,* 14:115-122, 1912.

A Quantitative or a Qualitative Standard. *Iowa State Teachers Association, Proceedings,* 58:242-245, 1912.

An Inspector's Observations of High School History Teaching. *Mississippi Valley Historical Association, Proceedings,* 6:255-56, 1913.

Religious Education and the Public School System. *Religious Education,* 10:549-58, 1915.

Parent-Teacher Associations in Iowa. *University of Iowa Extension Bulletin,* No. 42, 1918.

Some Post-War Problems in Education. *Iowa State Teachers Association, Proceedings,* 65:53-65, 1919.

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